



# **California State Board of Education**

## **Meeting Agenda Items for May 8-9, 2013**

# Vision, Mission, and Goals

California State Board of Education vision, mission, and goals statement.

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## VISION

All California students of the 21st century will attain the highest level of academic knowledge, applied learning and performance skills to ensure fulfilling personal lives and careers and contribute to civic and economic progress in our diverse and changing democratic society.

## MISSION

Create strong, effective schools that provide a wholesome learning environment through incentives that cause a high standard of student accomplishment as measured by a valid, reliable accountability system.

## GOALS

1. *Standards.* Adopt and support rigorous academic content and performance standards in the four core subjects for kindergarten and grades 1 through 12.
2. *Achievement.* Ensure that all students are performing at grade level or higher, particularly in reading and math, at the end of each school year, recognizing that a small number of exceptional needs students must be expected, challenged, and assisted to achieve at an individually determined and appropriately high level. Advocate for mandatory intervention for every child not at grade level. Do everything possible to ensure that "the job is done right in the first place".
3. *Assessment.* Maintain policies assuring that all students receive the same nationally normed and standards-based assessments, grades 2 through 11, again recognizing that a small number of exceptional needs students must be separately and individually assessed using appropriate alternative means to determine achievement and progress.

Questions: State Board of Education | 916-319-0827

Last Reviewed: Tuesday, March 05, 2013

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California Department of Education

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# Bylaws

For the California State Board of Education, Amended January 16, 2013.

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## ARTICLE I

### Authority

The California State Board of Education is established in the Constitution of the State of California and empowered by the Legislature through the California *Education Code*.

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## ARTICLE II

### Powers and Duties

The Board establishes policy for the governance of the state's kindergarten through grade twelve public school system as prescribed in the *Education Code*, and performs other duties consistent with statute.

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## ARTICLE III

### Members

#### APPOINTMENT

##### *Section 1.*

The State Board of Education consists of 11 members who are appointed by the Governor with the advice and consent of two-thirds of the Senate.

*CC, Art. IX, Sec. 7*  
*EC 33000 and 33000.5*

#### TERM OF OFFICE

##### *Section 2.*

- a. The term of office of the members of the Board is four years, except for the student member whose term is one year.
- b. Except for the student member, who serves a one-year term, terms expire on January 15 of the fourth year following their commencement. Members, other than the student member, continue to serve until the appointment and qualification of their successors to a maximum of 60 days after the expiration of their terms. If the member is not reappointed and no successor is appointed within that 60-day period, the member may no longer serve and the position is deemed vacant. The term of the student member begins on August 1 and ends on July 31 of the following year.
- c. If the Senate refuses to confirm, the person may continue to serve until 60 days have elapsed since the refusal to confirm or until 365 days have elapsed since the person first began performing the duties of the office, whichever occurs first.
- d. If the Senate fails to confirm within 365 days after the day the person first began performing the duties of the office, the person may not continue to serve in that office following the end of the 365-day period.

*EC 33001; 33000.5*  
*GC 1774*

#### VACANCIES

##### *Section 3.*

Any vacancy shall be filled by appointment by the Governor, subject to confirmation by two-thirds of the Senate. The person appointed to fill a vacancy shall hold office only for the balance of the unexpired term.

*EC 33002*

## **STUDENT MEMBER**

### **Section 4.**

Finalists for the student member position shall be selected and recommended to the Governor as prescribed by law.

*EC 33000.5*

## **COMPENSATION AND EXPENSES**

### **Section 5.**

Members of the Board shall receive their actual and necessary travel expenses while on official business. Each member shall also receive one hundred dollars (\$100) for each day he or she is acting in an official capacity.

*EC 33006*

*GC 11564.5*

## **CONFLICT OF INTEREST CODE**

### **Section 6.**

Board members shall file statements of economic interest as required by the Fair Political Practices Commission. The terms of a standard Conflict of Interest Code, adopted by the Commission and as may be amended, are incorporated by reference and constitute the Conflict of Interest Code of the Board.

*2 CCR 18730*

*5 CCR 18600*

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## **ARTICLE IV**

### **Officers and Duties**

#### **PRESIDENT, VICE PRESIDENT**

##### **Section 1.**

Officers of the Board shall be a president and a vice president. No member may serve as both president and vice president at the same time.

##### **Section 2.**

- a. The president and vice president shall be elected annually in accordance with the procedures set forth in this section.
- b. At the January meeting, the State Superintendent of Public Instruction shall ask members to nominate individuals for the office of president. At that same meeting, the president shall ask Board members to nominate individuals for the office of vice president. Any nomination for office must be seconded. No member may nominate or second the nomination for himself or herself for either office.
- c. Six votes are necessary to elect an officer, and each officer elected shall serve for one year or until his or her successor is elected.
- d. If, in the Board's judgment, no nominee for the office of president or vice president can garner sufficient votes for election to that office at the January meeting, a motion to put the election over to a subsequent meeting is in order.
- e. Newly elected officers shall assume office immediately following the election.
- f. In the event a vacancy occurs in the office of president or vice president during a calendar year, an election shall be held at the next meeting. Any member interested in completing the one-year term of an office that has become vacant may nominate himself or herself, but each nomination requires a second.
- g. The State Superintendent of Public Instruction shall preside only during the election proceedings for the office of president and for the conduct of any other business that a majority of the Board members may direct.

#### **EXECUTIVE OFFICER**

##### **Section 3.**

The State Superintendent of Public Instruction shall be secretary and shall act as executive officer of the Board.

*EC 33004*

## **DUTIES OF THE PRESIDENT**

### ***Section 4.***

The president shall:

- serve as spokesperson for the Board;
- represent the position of the Board to the State Superintendent of Public Instruction;
- appoint members to serve on committees and as liaisons, as prescribed in these Bylaws, and as may be needed in his or her judgment properly to fulfill the Board's responsibilities;
- serve as an ex officio voting member of the Screening Committee and any ad hoc committees, either by substituting for an appointed member who is not present with no change in an affected committee's quorum requirement, or by serving as an additional member with the affected committee's quorum requirement being increased if necessary;
- preside at all meetings of the Board and follow-up with the assistance of the executive director to see that agreed upon action is implemented;
- serve, as necessary, as the Board's liaison to the National Association of State Boards of Education, or designate a member to serve in his or her place;
- serve, or appoint a designee to serve, on committees or councils that may be created by statute or official order where required or where, in his or her judgment, proper carrying out of the Board's responsibility demands such service;
- keep abreast of local, state, and national issues through direct involvement in various conferences and programs dealing with such issues, and inform Board members of local, state, and national issues;
- participate in selected local, state, and national organizations, which have an impact on public education, and provide to other members, the State Superintendent, and the staff of the Department of Education the information gathered and the opinion and perspective developed as the result of such active personal participation;
- provide direction for the executive director;
- and, along with the executive director, direct staff in preparing agendas for Board meetings, in consultation with other members as permitted by law, and determine priorities for the expenditure of board travel funds.

## **DUTIES OF THE VICE PRESIDENT**

### ***Section 5.***

The vice president shall:

- preside at Board meetings in the absence of the president;
- represent the Board at functions as designated by the president; and
- fulfill all duties of the president when he or she is unable to serve.

## **DUTIES OF COMMITTEE CHAIR**

### ***Section 6.***

The chair of the Screening Committee or any ad hoc committee shall:

- preside at meetings of the committee he or she chairs, except that he or she shall yield the chair to another committee member in the event he or she will be absent or confronts a conflict regarding any matter coming before the committee, and may yield the chair to another committee member for personal reasons; and
- in consultation with the president, other committee members, and appropriate staff, assist in the preparation of committee agendas and coordinate and facilitate the work of the committee in furtherance of the Board's goals and objectives.

## **DUTIES OF LIAISON OR REPRESENTATIVE**

### ***Section 7.***

A Board member appointed as a liaison or representative shall:

- serve as an informal (non-voting) link between the Board and the advisory body or agency (or function) to which he or she is appointed as liaison or representative; and
- reflect the position of the Board, if a position is known to him or her, on issues before the advisory body or agency (or within

the function) to which he or she is appointed as liaison or representative and keep the Board appropriately informed.

## **DUTIES OF A BOARD MEMBER APPOINTED TO ANOTHER AGENCY**

### **Section 8.**

The member shall:

- to every extent possible, attend the meetings of the agency and meet all responsibilities of membership; and
  - reflect through his or her participation and vote the position of the Board, if a position is known to him or her, and keep the Board informed of the agency's activities and the issues with which it is dealing.
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## **ARTICLE V**

### **Meetings**

#### **REGULAR MEETINGS**

##### **Section 1.**

Generally, regular meetings of the Board shall be held on the Wednesday and Thursday preceding the second Friday of each of the following months: January, March, May, July, September, and November. However, in adopting a specific meeting schedule, the Board may deviate from this pattern to accommodate state holidays and special events. Other regularly noticed meetings may be called by the president for any stated purpose.

*EC 33007*

#### **SPECIAL MEETINGS**

##### **Section 2.**

Special meetings may be called to consider those purposes specified in law if compliance with the 10-day notice would impose a substantial hardship on the board or if immediate action is required to protect the public interest.

#### **OPEN MEETINGS**

##### **Section 3.**

- a. All meetings of the Board, except the closed sessions permitted by law, and all meetings of Board committees, to the extent required by law, shall be open and public.
- b. All meetings shall conform to the Bagley-Keene Open Meeting Act, including requirements for notices of meetings, preparation and distribution of agendas and written materials, inspection of public records, closed sessions and emergency meetings, maintenance of records, and disruption of a public meeting. Those provisions of law which govern the conduct of meetings of the Board are hereby incorporated by reference into these Bylaws.
- c. Unless otherwise provided by law, meetings of any advisory body, committee or subcommittee thereof, created by statute or by formal action of the Board, which is required to advise or report or recommend to the Board, shall be open to the public.

*GC 11120 et seq.*

#### **NOTICE OF MEETINGS**

##### **Section 4.**

- a. Notice of each regular meeting shall be posted at least 10 days prior to the time of the meeting and shall include the time, date, and place of the meeting and a copy of the meeting agenda.
- b. Notice of any meeting of the Board shall be given to any person so requesting. Upon written request, individuals and organizations wishing to receive notice of meetings of the Board will be included on the mailing list for notice of regular meetings.

#### **SPECIAL MEETINGS (ADDITIONAL PROVISIONS)**

##### **Section 5.**

- a. Special meetings may be called by the president or by the secretary upon the request of any four members of the board for the purposes specified in law if compliance with the 10-day notice requirements would impose a substantial hardship on the board or if immediate action is required to protect the public interest.
- b. Notice of special meetings shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting. Notice shall also be provided to all national press wire services. Notice to the general public shall be made by placing it on appropriate electronic bulletin boards if possible.
- c. Upon commencement of a special meeting, the board shall make a finding in open session that giving a 10-day notice prior to the meeting would cause a substantial hardship on the board or that immediate action is required to protect the public interest. The finding shall be adopted by a two-thirds vote of the board or a unanimous vote of those members present if less than two-thirds of the members are present at the meeting.

*EC 33008*

*GC 11125*

## **EMERGENCY MEETINGS**

### **Section 5.**

- a. An emergency meeting may be called by the president or by the secretary upon the request of any four members without providing the notice otherwise required in the case of a situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities and which is properly a subject of an emergency meeting in accordance with law.
- b. The existence of an emergency situation shall be determined by concurrence of six of the members during a meeting prior to an emergency meeting, or at the beginning of an emergency meeting, in accordance with law.
- c. Notice of an emergency meeting shall be provided in accordance with law.

*GC 11125.5*

*EC 33008*

*EC 33010*

## **CLOSED MEETINGS**

### **Section 6.**

Closed sessions shall be held only in accordance with law.

*GC 11126*

## **QUORUM**

### **Section 7.**

- a. The concurrence of six members of the Board shall be necessary to the validity of any of its acts.  
*EC 33010*
- b. A quorum of any Board committee shall be a majority of its members, and a committee may recommend actions to the Board with the concurrence of a majority of a quorum.

## **ORDER OF BUSINESS**

### **Section 8.**

The order of business for all regular meetings of the Board shall generally be:

- Call to Order
- Salute to the Flag
- Communications
- Announcements
- Report of the State Superintendent of Public Instruction
- Special Presentations
- Agenda Items
- Adjournment

## **CONSENT CALENDAR**

### ***Section 9.***

- a. Non-controversial matters and waiver requests meeting established guidelines may be presented to the Board on a consent calendar.
  - b. Items may be removed from the consent calendar upon the request of an individual Board member or upon the request of Department staff authorized by the State Superintendent of Public Instruction to submit items for consideration by the Board.
  - c. Items removed from the consent calendar shall be referred to a standing committee or shall be considered by the full Board at the direction of the president.
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## **ARTICLE VI**

### **Committees and Representatives**

#### **SCREENING COMMITTEE**

##### ***Section 1.***

- a. The president shall appoint a Screening Committee composed of at least three Board members to screen and interview applicants for appointment to Board advisory bodies and other positions as necessary; participate, as directed by the president, in the selection of candidates for the position of student Board member in accordance with law; and recommend appropriate action to the Board. The president shall designate one Board member as Chair of the Screening Committee.
- b. In consultation with the chair, the president may appoint additional Board members, such as the appointed Board liaison, to serve as voting members of the Screening Committee on a temporary basis. In accordance with Section 4 of these bylaws, the president may also serve as an ex officio member of the Screening Committee. The quorum requirement shall be increased as necessary to include the total number of Board members, including temporary members, appointed to serve on the Committee for that purpose.
- c. As necessary, the chair may create an ad hoc subcommittee of the Screening Committee to assist the Screening Committee with its duties.

#### **AD HOC COMMITTEES**

##### ***Section 2.***

From time to time, the president may appoint ad hoc committees for such purposes as he or she deems necessary. Ad hoc committees shall remain in existence until abolished by the president.

#### **REPRESENTATIVES**

##### ***Section 3.***

From time to time, the president may assign Board members the responsibility of representing the State Board in discussions with staff (as well as with other individuals and agencies) in relation to such topics as assessment and accountability, legislation, and implementation of federal and state programs. The president may also assign Board members the responsibility of representing the Board in ceremonial activities.

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## **ARTICLE VII**

### **Public Hearings: General**

#### **SUBJECT OF A PUBLIC HEARING**

##### ***Section 1.***

- a. The Board may hold a public hearing regarding any matter pending before it after giving notice as required by law.
- b. The Board may direct that a public hearing be held before staff of the Department of Education, an advisory commission to the Board, or a standing or ad hoc committee of the Board regarding any matter which is or is likely to be pending before the Board. If the Board directs that a public hearing be held before staff, then a recording of the public hearing and a staff-



prepared summary of comments received at the public hearing shall be made available in advance of the meeting at which action on the pending matter is scheduled in accordance with law.

5 CCR 18460  
EC 33031  
GC 11125

#### **TIME LIMITS FOR THE PRESENTATION OF PUBLIC TESTIMONY**

##### **Section 2.**

At or before a public hearing, the presiding individual shall (in keeping with any legal limitation or condition that may pertain) determine the total amount of time that will be devoted to hearing oral comments, and may determine the time to be allotted to each person or to each side of an issue.

5 CCR 18463  
EC 33031

#### **WAIVER BY PRESIDING INDIVIDUAL**

##### **Section 3.**

At any time, upon a showing of good cause, the presiding individual may waive any time limitation established under Section 3 of this article.

5 CCR 18464  
EC 33031

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## **ARTICLE VIII**

### **Public Hearings: School District Reorganization**

#### **SUBMISSION OF PROPOSALS AND PETITIONS**

##### **Section 1.**

A proposal by a county committee on school district organization or other public agency, or a petition for the formation of a new district or the transfer of territory of one district to another shall be submitted to the executive officer of the Board. The executive officer of the Board shall cause the proposal or petition to be:

- reviewed and analyzed by the California Department of Education;
- set for hearing before the Board (or before staff if so directed by the Board) at the earliest practicable date; and
- transmitted together with the report and recommendation of the Department of Education to the Board (or to the staff who may be directed by the Board to conduct the hearing) and to such other persons as is required by law not later than ten days before the date of the hearing.

CCR 18570

#### **ARGUMENTS PRESENTED AT THE PUBLIC HEARING: ORIGINAL SUBMISSION**

##### **Section 2.**

At the time and place of hearing, the Board (or staff if so directed by the Board) will receive oral or written arguments on the proposal or petition. The presiding individual may limit the number of speakers on each side of the issue, limit the time permitted for the presentation of a particular view, and limit the time of the individual speakers. The presiding individual may ask that speakers not repeat arguments previously presented.

CCR 18571

#### **RESUBMISSION OF THE SAME OR ESSENTIALLY IDENTICAL PROPOSAL OR PETITION**

##### **Section 3.**

If the same or an essentially identical proposal or petition has been previously considered by the Board, the documents constituting such a resubmission shall be accompanied by a written summary of any new factual situations or facts not previously presented. In this case, any hearing shall focus on arguments not theretofore presented and hear expositions of new factual situations and of facts not previously entered into the public record.

CCR 18572

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## ARTICLE IX

### Public Records

Public records of the Board shall be available for inspection and duplication in accordance with law, including the collection of any permissible fees for research and duplication.

GC 6250 et seq.

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## ARTICLE X

### Parliamentary Authority

#### RULES OF ORDER

##### **Section 1.**

Debate and proceedings shall be conducted in accordance with Robert's Rules of Order (Newly Revised) when not in conflict with rules of the Board and other statutory requirements.

##### **Section 2.**

Members of the public or California Department of Education staff may be recognized by the president of the Board or other presiding individual, as appropriate, to speak at any meeting. Those comments shall be limited to the time determined by the president or other presiding individual. All remarks made shall be addressed to the president or other presiding individual. In order to maintain appropriate control of the meeting, the president or other presiding individual shall determine the person having the floor at any given time and, if discussion is in progress or to commence, who may participate in the discussion.

##### **Section 3.**

All speakers shall confine their remarks to the pending matter as recognized by the president or other presiding individual.

##### **Section 4.**

Public speakers shall not directly question members of the Board, the State Superintendent, or staff without express permission of the president or other presiding individual, nor shall Board members, the State Superintendent, or staff address questions directly to speakers without permission of the president or other presiding individual.

##### **Section 5.**

The Chief Counsel to the Board or the General Counsel of the California Department of Education, or a member of the Department's legal staff in the absence of the Board's Chief Counsel, will serve as parliamentarian. In the absence of legal staff, the president or other presiding individual will name a temporary replacement if necessary.

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## ARTICLE XI

### Board Appointments

#### ADVISORY BODIES

##### **Section 1.**

Upon recommendation of the Screening Committee as may be necessary, the Board appoints members to the following advisory bodies for the terms indicated:

- a. Advisory Commission on Special Education. The Board appoints five of 17 members to serve four-year terms.  
*EC 33590*
- b. Instructional Quality Commission. The Board appoints 13 of 18 members to serve four-year terms.  
*EC 33530*
- c. Child Nutrition Advisory Council. The Board appoints 13 members, 12 to three-year terms and one student representative to a one-year term. By its own action, the Council may provide for the participation in its meetings of non-voting representatives of interest groups not otherwise represented among its members, such as school business officials and experts in the area of physical education and activity.  
*EC 49533*
- d. Advisory Commission on Charter Schools. The Board appoints eight members to two-year terms.  
*EC 47634.2(b)(1)*  
*State Board of Education Policy 01-04*

## **OTHER APPOINTMENTS**

### **Section 2.**

On the Board's behalf, the president shall make all other appointments that are required of the Board or require Board representation, including, but not limited to: WestEd (Far West Laboratory for Educational Research and Development), Trustees of the California State Summer School for the Arts and the California Subject Matter Projects.

## **SCREENING AND APPOINTMENT**

### **Section 3.**

Opportunities for appointment shall be announced and advertised as appropriate, and application materials shall be made available to those requesting them. The Screening Committee shall paper-screen all applicants, interview candidates as the Committee determines necessary, and recommend appropriate action to the Board.

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## **ARTICLE XII**

### **Presidential Appointments**

#### **LIAISONS**

##### **Section 1.**

The president shall appoint one Board member, or more where needed, to serve as liaison(s) to:

- a. The Advisory Commission on Special Education.
- b. The Instructional Quality Commission.
- c. The Advisory Commission on Charter Schools.
- d. The National Association of State Boards of Education, if the Board participates in that organization.
- e. The Commission on Teacher Credentialing.

#### **OTHER**

##### **Section 2.**

The president shall make all other appointments that may be required of the Board or that require Board representation.

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## **ARTICLE XIII**

### **Amendment to the Bylaws**

These Bylaws may be amended at any regular meeting of the Board, provided that the amendment has been submitted in writing to the Board and members of the public with the meeting notice.

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## Abbreviations

Abbreviations used in these Bylaws, citing Board authority, are:

Abbreviation	Description
CC	Constitution of the State of California
CCR	California Code of Regulations
EC	California <i>Education Code</i>
GC	California <i>Government Code</i>
CFR	Code of Federal Regulations
JPA-FWL	Joint Powers Agreement Establishing the Far West Laboratory for Educational Research and Development, originally entered into by the State Board of Education on February 11, 1966, and subsequently amended

## Dates of Adoption and Amendment

Status	Date
Adopted	April 12, 1985
Amended	February 11, 1987
Amended	December 11, 1987
Amended	November 11, 1988
Amended	December 8, 1989
Amended	December 13, 1991
Amended	November 13, 1992
Amended	February 11, 1993
Amended	June 11, 1993
Amended	May 12, 1995
Amended	January 8, 1998
Amended	April 11, 2001
Amended	July 9, 2003
Amended	January 16, 2013

Questions: State Board of Education | 916-319-0827

Last Reviewed: Wednesday, January 30, 2013

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# SBE Agenda for May 2013

Agenda for the California State Board of Education (SBE) meeting on May 8-9, 2013.

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## State Board Members

- Michael W. Kirst, President
- Ilene Straus, Vice President
- Sue Burr
- Carl Cohn
- Bruce Holaday
- Aida Molina
- Patricia A. Rucker
- Niki Sandoval
- Trish Williams
- Josephine Kao, Student Member
- *Vacancy*

## Secretary & Executive Officer

- Hon. Tom Torlakson

## Executive Director

- Karen Stapf Walters

Schedule of Meeting	Location
<b>Wednesday, May 8, 2013</b> 8:30 a.m. Pacific Time ±  STATE BOARD OF EDUCATION  <b>Public Session, adjourn to Closed Session – IF NECESSARY.</b>	<b>California Department of Education</b> 1430 N Street, Room 1101 Sacramento, California 95814 916-319-0827

Please see the detailed agenda for more information about the items to be considered and acted upon. The public is welcome.

Schedule of Meeting	Location
<b>Thursday, May 9, 2013</b> 8:30 a.m. Pacific Time ±  STATE BOARD OF EDUCATION  <b>Public Session, adjourn to Closed Session – IF NECESSARY.</b> The Closed Session will take place at approximately 8:30 a.m. (The public may not attend.)	<b>California Department of Education</b> 1430 N Street, Room 1101 Sacramento, California 95814 916-319-0827

The Closed Session (1) may commence earlier than 8:30 a.m.; (2) may begin at or before 8:30 a.m., be recessed, and then be reconvened later in the day; or (3) may commence later than 8:30 a.m.

## CLOSED SESSION AGENDA

Conference with Legal Counsel – Existing Litigation: Under *Government Code* sections 11126(e)(1) and (e)(2)(A), the State Board of Education hereby provides public notice that some or all of the pending litigation follows will be considered and acted upon in closed session:

- *Alejo, et al. v. Jack O'Connell, State Board of Education, et al.*, San Francisco County Superior Court, Case No. CPF-09-509568, CA Ct. of Appeal, 1<sup>st</sup> Dist., Case No. A130721
- *California School Boards Association, et al. v. California State Board of Education and Aspire Public Schools, Inc.*, Alameda County Superior Court, Case No. 07353566, CA Ct. of Appeal, 1<sup>st</sup> Dist., Case No. A122485, CA Supreme Court, Case No. S186129
- *California School Boards Association and its Education Legal Alliance, et al. v. The California State Board of Education, et al.*, Sacramento County Superior Court, Case No. 34-2008-00021188-CU-MC-GDS, CA Ct. of Appeal, 3<sup>rd</sup> Dist., Case No. No. C060957
- *D.J. et al. v. State of California, California Department of Education, Tom Torlakson, the State Board of Education*, Los Angeles Superior Court, Case No. BS142775.
- *Emma C., et al. v. Delaine Eastin, et al.*, USDC (No.Dist.CA), Case No. C-96-4179
- *EMS-BP, LLC, Options for Youth Burbank, Inc., et al. v. California Department of Education, et al.*, Sacramento County Superior Court, Case No. 03CS01078 and 03CS01079 and related appeal
- *Graham et al. v the State Board of Education, the California Department of Education, Jack O'Connell, Fred Balcom, Tom Torlakson*, Los Angeles County Superior Court, Case No. BC482694, 2<sup>nd</sup> Dist., Case No. B245288
- *K.C. et al. v. Jack O'Connell, et al.*, U.S. District Court, Northern District of California, Case No. C054077 MMC
- *Opportunity for Learning – PB, LLC; Opportunities Learning – C, LLC, and Opportunities for Learning WSH, LLC*, Notice of Appeal Before the Audit Appeals Panel
- *Options for Youth, Burbank, Inc., San Gabriel, Inc. Upland, Inc. and Victor Valley*, Notice of Appeal Before the Education Audit Appeals Panel, OAH Case No. 2006100966
- *Options for Youth-Victor Valley, et al. v. California Department of Education, et al.*, Los Angeles County Superior Court, Case No. BC347454
- *Perris Union High School District v. California State Board of Education, California Department of Education, et al.*, Riverside County Superior Court, Case No. RIC520862, CA Ct. of Appeal, 4<sup>th</sup> District, Case No. E055856
- *Porter, et al., v. Manhattan Beach Unified School District, et al.*, United States District Court, Central District, Case No. CV-00-08402
- *Reed v. State of California, Los Angeles Unified School District, State Superintendent of Public Instruction, Jack O'Connell, California Department of Education, and State Board of Education, et al.*, Los Angeles County Superior Court, Case No. BC432420, CA Ct. of Appeal, 2<sup>nd</sup> Dist., Case No. B230817, CA Supreme Ct., Case No. 5191256
- *Shabazz, et al. v. Governor Edmund G. Brown Jr., California Attorney General Kamala Harris, Superintendent of Public Instruction Tom Torlakson, President California State Board of Education Dr. Michael Kirst, Does 1-50*, Alameda County Superior Court, Case No. RG12636192
- *Stoner Park Community Advocates v. City of Los Angeles, Department of Planning of the City of Los Angeles, Department of Transportation City of Los Angeles, New West Charter Middle School, and State Board of Education*, Los Angeles County Superior Court, Case No. BS138051
- *Today's Fresh Start, Inc. v. Los Angeles County Office of Education, et al.*, Los Angeles County Superior Court, Case No. BS112656, CA Ct. of Appeal, 2<sup>nd</sup> Dist., Case Nos. B212966 and B214470
- *Vergara et al. v. State of California, Governor Edmund G. Brown, Tom Torlakson, the California Department of Education, the State Board of Education*, Los Angeles County Superior Court, Case No. BC484642

Conference with Legal Counsel – Anticipated Litigation: Under *Government Code* sections 11126(e), the State Board of Education hereby provides public notice that it may meet in Closed Session to decide whether there is a significant exposure to litigation, and to consider and act in connection with matters for which there is a significant exposure to litigation. Under *Government Code* sections 11126(e)(1) and (e)(2), the State Board of Education hereby provides public notice that it may meet in Closed Session to decide to initiate litigation and to consider and act in connection with litigation it has decided to initiate.

Under *Government Code* Section 11126(c)(14), the State Board of Education hereby provides public notice that it may meet in Closed Session to review and discuss the actual content of pupil achievement tests (including, but not limited to, the High School Exit Exam) that have been submitted for State Board approval and/or approved by the State Board.

Under *Government Code* Section 11126(a), the State Board of Education hereby provides public notice that it may meet in Closed Session regarding the appointment, employment, evaluation of performance, or dismissal, discipline, or release of public employees, or a complaint or charge against public employees. Public employees include persons exempt from civil service under Article VII, Section 4(e) of the California Constitution.

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Schedule of Meeting	Location
<b>Thursday, May 9, 2013</b> 8:30 a.m. Pacific Time ±  (Upon Adjournment of Closed Session, if held.)  STATE BOARD OF EDUCATION  <b>Public Session</b>	<b>California Department of Education</b> 1430 N Street, Room 1101 Sacramento, California 95814 916-319-0827

Please see the detailed agenda for more information about the items to be considered and acted upon. The public is welcome.

**ALL TIMES ARE APPROXIMATE AND ARE PROVIDED FOR CONVENIENCE ONLY**

**ALL ITEMS MAY BE RE-ORDERED TO BE HEARD ON ANY DAY OF THE NOTICED MEETING**

**THE ORDER OF BUSINESS MAY BE CHANGED WITHOUT NOTICE**

Time is set aside for individuals desiring to speak on any topic **not** otherwise on the agenda (please see the detailed agenda for the Public Session). In all cases, the presiding officer reserves the right to impose time limits on presentations as may be necessary to ensure that the agenda is completed.

**REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY**

Pursuant to the *Rehabilitation Act of 1973* and the *Americans with Disabilities Act of 1990*, any individual with a disability who requires reasonable accommodation to attend or participate in a meeting or function of the California State Board of Education (SBE), may request assistance by contacting the SBE Office, 1430 N Street, Room 5111, Sacramento, CA, 95814; telephone, 916-319-0827; facsimile, 916 319-0175.

**CALIFORNIA STATE BOARD OF EDUCATION**

**FULL BOARD AGENDA**  
**Public Session**

**May 8, 2013**

**Wednesday, May 8, 2013 – 8:30 a.m. Pacific Time ±**  
California Department of Education  
1430 N Street, Room 1101  
Sacramento, California 95814

- Call to Order
- Salute to the Flag
- Communications
- Announcements
- Report of the State Superintendent of Public Instruction
- Special Presentations
  - Public notice is hereby given that special presentations for informational purposes may take place during this session.*
- Agenda Items
- Adjournment

**AGENDA ITEMS**

[Item 1](#) (DOC)

**Subject:** STATE BOARD PROJECTS AND PRIORITIES.

Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; bylaw review and revision; Board

policy; approval of minutes; Board liaison reports; training of Board members; and other matters of interest.

**Type of Action:** Action, Information

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[Item 2](#) (DOC)

**Subject:** Update on the Activities of the California Department of Education and State Board of Education Regarding Implementation of Common Core State Standards Systems.

**Type of Action:** Action, Information

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[Item 3](#) (DOC)

**Subject:** Update on Statewide Assessment Transition and Smarter Balanced Assessment Resources and Development Activities.

**Type of Action:** Information

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[Item 4](#) (DOC)

**Subject:** Standardized Testing and Reporting Program: Final Results of the Science Computer-based Testing Tryout.

**Type of Action:** Information

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[Item 5](#) (DOC)

**Subject:** California English Language Development Test: Transitioning to the English Language Proficiency Assessments for California.

**Type of Action:** Information

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[Item 6](#) (DOC)

**Subject:** Background Information on the Academic Performance Index and an Update on the California Department of Education's Implementation Timeline and Process Consistent With *Education Code* Sections 52052 through 52052.9.

**Type of Action:** Information

- [Item 6 Attachment 3](#) (PDF)
- 

[Item 7](#) (DOC)

**Subject:** Elementary and Secondary Education Act: Proposed Amendments to the Accountability Workbook for 2013.

**Type of Action:** Action, Information

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[Item 8](#) (DOC)

**Subject:** 2014 Mathematics Primary Adoption of Instructional Materials: Appointment of Instructional Materials Reviewers, Content Review Experts, and Non-Instructional Quality Commissioner Facilitators; Approval of Revision to the Schedule of Significant Events; Approval of Reviewer Training Materials; and Approval of Publisher Fee Reduction Request.

**Type of Action:** Action, Information

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[Item 9](#) (DOC)

**Subject:** English Language Development Supplemental Instructional Materials Review: Reviewer Approval.

**Type of Action:** Action, Information

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[Item 10](#) (DOC)

**Subject:** Update on the public process to revise and adopt the Science Content Standards for California Public Schools, Kindergarten through Grade Twelve based upon the nationally developed Next Generation Science Standards as required by *Education Code* 60605.85.

**Type of Action:** Action, Information

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[Item 11](#) (DOC)

**Subject:** Adoption of Standards for Evaluating Instructional Materials for Social Content 2013 Edition.

**Type of Action:** Action, Information

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## WAIVERS

### WAIVERS / ACTION AND CONSENT ITEMS

The following agenda items include waivers that are proposed for consent and those waivers scheduled for separate action because CDE staff has identified possible opposition, recommended denial, or determined may present new or unusual issues that should be considered by the State Board. Waivers proposed for consent are so indicated on each waiver's agenda item; however, any board member may remove a waiver from proposed consent and the item may be heard individually. On a case-by-case basis, public testimony may be considered regarding the item, subject to the limits set by the Board President or by the President's designee; and action different from that recommended by CDE staff may be taken.

Charter School Program (Attendance Accounting for Multi-Track)

[Item W-01](#) (DOC)

**Subject:** Request by two school districts to waive portions of *California Code of Regulations*, Title 5, Section 11960(a), to allow the charter school attendance to be calculated as if they were regular multi-track schools.

**Waiver Numbers:**

- Mountain Empire Unified School District 68-1-2013
- New Jerusalem Elementary School District 81-1-2013

(Recommended for APPROVAL WITH CONDITIONS)

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Open Enrollment (Removal From the List of LEAs)

[Item W-02](#) (DOC)

**Subject:** Request by six school districts to waive *California Education Code* Section 48352(a) and *California Code of Regulations*, Title 5, Section 4701, to remove their school from the Open Enrollment List of "low-achieving schools" for the 2013–14 school year.

**Waiver Numbers:**

- Capistrano Unified School District 7-1-2013
- Capistrano Unified School District 9-1-2013
- Capistrano Unified School District 10-1-2013
- Capistrano Unified School District 11-1-2013
- Capistrano Unified School District 12-1-2013
- Capistrano Unified School District 13-1-2013
- Capistrano Unified School District 14-1-2013
- Glendale Unified School District 36-2-2013
- Little Lake City Elementary School District 67-1-2013
- Livermore Valley Joint Unified School District 3-2-2013
- Livermore Valley Joint Unified School District 6-2-2013
- Saddleback Valley Unified School District 53-1-2013
- Saddleback Valley Unified School District 54-1-2013
- Saddleback Valley Unified School District 55-1-2013

- Saddleback Valley Unified School District 56-1-2013
- Tustin Unified School District 65-1-2013

(Recommended for APPROVAL WITH CONDITIONS)

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#### Physical Education Program (Block Schedules)

[Item W-03](#) (DOC)

**Subject:** Request by Fremont Unified School District to waive portions of California *Education Code* Section 51222(a), related to the statutory minimum requirement of 400 minutes of physical education each ten school days for students in grades nine through twelve in order to implement a block schedule at Kennedy High School.

**Waiver Number:** 82-1-2013

(Recommended for APPROVAL)

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#### Schoolsite Council Statute (Number and Composition of Members)

[Item W-04](#) (DOC)

**Subject:** Request by six local educational agencies under the authority of California *Education Code* Section 52863 for waivers of *Education Code* Section 52852, relating to school site councils regarding changes in shared, composition, or shared and composition members.

**Waiver Numbers:**

- Alview-Dairyland Union Elementary 15-1-2013
- Brawley Union High 86-1-2013
- Davis Joint Unified 2-1-2013
- Davis Joint Unified 3-1-2013
- Davis Joint Unified 4-1-2013
- Kings County Office of Education 2-2-2013
- Hanford Elementary 8-12-2012
- Siskiyou County Office of Education 5-12-2013

(Recommended for APPROVAL WITH CONDITIONS)

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#### Special Education Program (Educational Interpreter for Deaf and Hard of Hearing)

[Item W-05](#) (DOC)

**Subject:** Request by four local educational agencies to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow four educational interpreters to continue to provide services to students until June 30, 2013, under a remediation plan to complete those minimum qualifications.

**Waiver Numbers:**

- Kings County Office of Education 52-1-2013
- Dinuba Unified School District 70-1-2013
- Exeter Union Elementary School District 79-1-2013
- Plumas Unified School District 37-2-2013

(Recommended for APPROVAL WITH CONDITIONS)

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#### Special Education Program (Resource Teacher Caseload)

[Item W-06](#) (DOC)

**Subject:** Request by two local educational agencies, under the authority of California *Education Code* Section 56101 and *California Code of Regulations*, Title 5, Section 3100 to waive *Education Code* Section 56362(c). Approval of this waiver will allow the

resource specialists at the Ferndale High School and Ferndale Elementary School, and the resource specialist at the Kelseyville High School each to exceed the maximum caseload of 28 students by no more than four students (32 maximum).

**Waiver Numbers:**

- Ferndale Unified School District; 32-2-2013
- Kelseyville Unified School District; 80-1-2013

(Recommended for APPROVAL WITH CONDITIONS)

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State Meal Mandate (Summer School Session)

[Item W-07](#) (DOC)

**Subject:** Request by nine school districts under the authority of California *Education Code* Section 49548 to waive *Education Code* Section 49550, the State Meal Mandate during the summer school session.

**Waiver Numbers:**

- Eastern Sierra Unified School District 8-3-2013
- Liberty Elementary School District 11-3-2013
- McCabe Union Elementary School District 14-2-2013
- Midway Elementary School District 17-2-2013
- Sierra-Plumas Joint Unified School District 25-2-2013
- Snowline Joint Unified School District 49-2-2013
- Wasco Union High School District 16-3-2013
- Wiseburn Elementary School District 12-2-2013
- Yreka Union High School District 27-3-2013

(Recommended for APPROVAL)

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State Testing Apportionment Report (CELDT)

[Item W-08](#) (DOC)

**Subject:** Request by seven local educational agencies to waive the State Testing Apportionment Information Report deadline of December 31 in the *California Code of Regulations*, Title 5, Section 11517.5(b)(1)(A) regarding the California English Language Development Test; or Title 5, Section 1225(b)(2)(A) regarding the California High School Exit Examination; or Title 5, Section 862(c)(2)(A) regarding the Standardized Testing and Reporting Program.

**Waiver Numbers:**

- Albany City Unified School District 18-2-2013
- Delano Union Elementary School District 87-1-2013
- Piedmont City Unified School District 91-1-2013
- San Bernardino Unified School District 64-1-2013
- San Diego Unified School District 8-1-2013
- Ukiah Unified School District 75-1-2013
- Ventura Unified School District 103-12-2012

(Recommended for APPROVAL)

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Charter School Program (Attendance Area)

Item W-09 - WITHDRAWN BY LOS ANGELES COUNTY OFFICE OF EDUCATION ON APRIL 26, 2013

**Subject:** Request by Los Angeles County Office of Education to waive California *Education Code (EC)* Section 47605(d)(2)(A): A charter school shall admit pupils who wish to attend the school, to allow Optimist Charter School to admit only pupils who are placed by the Department of Probation residing in foster youth placement.

**Waiver Number:** 92-1-2013

(Recommended for DENIAL)

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Equity Length of Time (Equity Length of Time)

[Item W-10](#) (DOC)

**Subject:** Request by Harmony Union Elementary School District to waive California *Education Code* Section 37202, the equity length of time requirement for transitional kindergarten and kindergarten programs at Harmony Elementary School.

**Waiver Number:** 72-1-2013

(Recommended for APPROVAL WITH CONDITIONS)

---

Open Enrollment (Removal From the List of LEAs)

[Item W-11](#) (DOC)

**Subject:** Request by Linden Unified School District to waive California *Education Code* Section 48352(a) and *California Code of Regulations*, Title 5, Section 4701, to remove Glenwood Elementary School from the Open Enrollment List of “low-achieving schools” for the 2013–14 school year.

**Waiver Number:** 69-1-2013

(Recommended for DENIAL)

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Other Waivers (Teacher Tenure when Part-time)

[Item W-12](#) (DOC)

**Subject:** Request by Colusa Unified School District to waive a portion of California *Education Code* Section 44908, the requirement that a probationary employee who, in any one school year, has served for at least seventy-five percent of the number of days the regular schools of the district in which he is employed are maintained shall be deemed to have served a complete school year.

**Waiver Number:** 90-1-2013

(Recommended for APPROVAL WITH CONDITIONS)

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Sale or Lease of Surplus Property (Lease of Surplus Property)

[Item W-13](#) (DOC)

**Subject:** Request by two districts, to waive all portions of California *Education Code* sections 17473 and 17474 and portions of 17466, 17472, 17475, and one of the two districts to waive all portions of 17485, et seq.

**Waiver Numbers:**

- Charter Oak Unified School District 17-3-2013
- Walnut Valley Unified School District 18-3-2013

(Recommended for APPROVAL WITH CONDITIONS)

---

Sale or Lease of Surplus Property (Joint Occupancy)

[Item W-14](#) (DOC)

**Subject:** Request by Folsom-Cordova Unified School District to waive portions of *Education Code* sections 17518 and 17524, regarding a joint occupancy agreement between the district and potential partners.

**Waiver Number:** 28-2-2013

(Recommended for APPROVAL)

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School Construction Bonds (Citizens Oversight Committee - Term Limits)

[Item W-15](#) (DOC)

**Subject:** Request by Montebello Unified School District to waive portions of California *Education Code* Section 15282, regarding term limits for membership of a Citizens' Oversight Committee for all construction bonds in the district.

**Waiver Number:** 10-2-2013

(Recommended for APPROVAL WITH CONDITIONS)

---

School District Reorganization (Elimination of Election Requirement)

[Item W-16](#) (DOC)

**Subject:** Request by four school districts to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to establish new trustee areas.

**Waiver Numbers:**

- Calaveras Unified 24-2-2013
- Lake Tahoe Unified 29-2-2013
- North Monterey County Unified 46-2-2013
- Menifee Union Elementary 30-3-2013

(Recommended for APPROVAL)

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School District Reorganization (Elimination of Election Requirement)

[Item W-17](#) (DOC)

**Subject:** Request by Patterson Joint Unified School District to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to establish new trustee areas and reduce the size of the governing board from seven to five members.

**Waiver Number:** 5-2-2013

(Recommended for APPROVAL)

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Special Education Program (Extended School Year (Summer School))

[Item W-18](#) (DOC)

**Subject:** Request by four local educational agencies to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days of attendance of four hours each for an extended school year (summer school) for special education students.

**Waiver Numbers:**

- Chula Vista Elementary School District; 95-1-2013
- Imperial County Office of Education; 31-2-2013
- Oroville City Elementary School District; 42-2-2013
- Visalia Unified School District 66-1-2013

(Recommended for APPROVAL WITH CONDITIONS)

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Class Size Penalties (Over Limit on Kindergarten through Grade Three)

[Item W-19](#) (DOC)

**Subject:** Request by four districts, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376(a), (c), and (d) and/or 41378(a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one through three, the overall class size average is 30 to one with no class larger than 32.

**Waiver Numbers:**

- Buena Park Elementary School District 56-2-2013
- Buena Park Elementary School District 57-2-2013
- Guadalupe Union Elementary School District 1-2-2013
- Mountain View Elementary School District 11-2-2013
- Mountain View Elementary School District 13-2-2013
- Mountain View Elementary School District 50-2-2013
- Mountain View Elementary School District 88-1-2013
- Murrieta Valley Unified School District 113-12-2012
- Murrieta Valley Unified School District 114-12-2012

(Recommended for APPROVAL WITH CONDITIONS)

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Class Size Penalties (Over limit on Kindergarten through Grade 3)

[Item W-20](#) (DOC)

**Subject:** Request by Montebello Unified School District, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376(a), (c), and (d) and/or 41378(a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one through three, the overall class size average is 30 to one with no class larger than 32.

**Waiver Number:** 40-2-2013

(Recommended for APPROVAL WITH CONDITIONS)

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Class Size Penalties (Over Limit on Grades 4-8)

[Item W-21](#) (DOC)

**Subject:** Request by three districts to waive portions of California *Education Code* Section 41376(b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average.

**Waiver Numbers:**

- Buena Park Elementary School District 58-2-2013
- Lemon Grove School District 15-2-2013
- Mountain View Elementary School District 89-1-2013

(Recommended for APPROVAL WITH CONDITIONS)

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Class Size Penalties (Over Limit on Grades 4-8)

[Item W-22](#) (DOC)

**Subject:** Request by Hemet School District for a renewal to waive portions of California *Education Code* Section 41376(b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average.

**Waiver Number:** 27-2-2013

(Recommended for APPROVAL WITH CONDITIONS)

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Quality Education Investment Act (Class Size Reduction Requirements)

[Item W-23](#) (DOC)

**Subject:** Request by West Contra Costa Unified School District for a renewal to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act.

**Waiver Number:** 20-2-2013

(Recommended for APPROVAL WITH CONDITIONS)

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Quality Education Investment Act (Class Size Reduction Requirements)

[Item W-24](#) (DOC)

**Subject:** Request by eight local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act.

**Waiver Numbers:**

- Hilmar Unified 30-2-2013
- Lynwood Unified 24-3-2013
- Montebello Unified 83-1-2013
- Montebello Unified 84-1-2013
- Oakland Unified 39-1-2013
- Oakland Unified 40-1-2013
- Oakland Unified 41-1-2013
- Oakland Unified 43-1-2013
- Oakland Unified 44-1-2013
- Oakland Unified 45-1-2013
- Oakland Unified 46-1-2013
- Ontario-Montclair Elementary 74-1-2013
- Ontario-Montclair Elementary 76-1-2013
- Ontario-Montclair Elementary 77-1-2013
- Ontario-Montclair Elementary 78-1-2013
- Orange Unified 43-2-2013
- Orange Unified 44-2-2013
- Orange Unified 45-2-2013
- Paramount Unified 21-2-2013
- Paramount Unified 22-2-2013
- Paramount Unified 23-2-2013
- Perris Elementary 6-1-2013
- Perris Elementary 51-3-2013
- Perris Elementary 52-3-2013

(Recommended for APPROVAL WITH CONDITIONS)

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Quality Education Investment Act (Highly Qualified Teachers)

[Item W-25](#) (DOC)

**Subject:** Request by three local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding Highly Qualified Teachers and/or the *Williams* case settlement requirements under the Quality Education Investment Act.

**Waiver Numbers:**

- Alum Rock Union Elementary 7-2-2013
- Alum Rock Union Elementary 9-2-2013
- Oakland Unified 37-1-2013
- Twin Rivers Unified 63-1-2013

(Recommended for APPROVAL WITH CONDITIONS)

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Quality Education Investment Act (Money to Follow Identified Students)

[Item W-26](#) (DOC)

**Subject:** Request by Los Angeles Unified School District to waive California *Education Code* Section 52055.750(a)(9) regarding the fund expenditure requirements of the Quality Education Investment Act in order to allow funds from San Fernando Middle School to

follow identified students who transferred to San Fernando Institute of Applied Media to ensure that they will not lose the benefits of the Quality Education Investment Act.

**Waiver Number:** 26-2-2013

(Recommended for DENIAL)

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Quality Education Investment Act (Rule of 27)

[Item W-27](#) (DOC)

**Subject:** Request by two local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act.

**Waiver Numbers:**

- Alum Rock Union Elementary 8-2-2013
- Lynwood Unified 23-3-2013

(Recommended for DENIAL)

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Quality Education Investment Act (Teacher Experience Index)

[Item W-28](#) (DOC)

**Subject:** Request by three local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding the Teacher Experience Index under the Quality Education Investment Act.

**Waiver Numbers:**

- Cutler-Orosi Joint Unified 16-2-2013
- Oakland Unified 35-1-2013
- Oakland Unified 36-1-2013
- West Contra Costa Unified 19-2-2013

(Recommended for APPROVAL WITH CONDITIONS)

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School Construction Bonds (Bonded Indebtedness)

[Item W-29](#) (DOC)

**Subject:** Request by six districts to waive one or more of the following California *Education Code* sections related to bonded indebtedness limits: Sections 15102, 15106, 15268, and 15270(a). Total bonded indebtedness may not exceed 1.25 percent of the taxable assessed valuation of property for high school and elementary school districts or 2.5 percent for unified school districts. Depending on the type of bond, a tax rate levy limit of \$30 per \$100,000 of assessed value for high school and elementary school districts or \$60 per \$100,000 for unified districts, may also apply.

**Waiver Numbers:**

- Centinela Valley Union High School District 27-1-2013
- Lindsay Unified School District 38-2-2013
- Oxnard School District 51-1-2013
- Stockton Unified School District 2-3-2013
- West Contra Costa Unified School District 57-1-2013
- Westside Union Elementary School District 35-2-2013

(Recommended for APPROVAL WITH CONDITIONS)

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School Construction Bonds (Bonded Indebtedness)

[Item W-30](#) (DOC)

**Subject:** Request by Jefferson Elementary School District to waive California *Education Code* sections 15102 and portions of



15268 related to bonded indebtedness limits. Total bonded indebtedness may not exceed 1.25 percent of the taxable assessed valuation of property for elementary school districts. Depending on the type of bond, a tax rate levy limit of \$30 per \$100,000 of assessed value for elementary school districts, may also apply.

**Waiver Number:** 56-10-2012

(Recommended for APPROVAL WITH CONDITIONS)

## END OF WAIVERS

## ADJOURNMENT OF DAY'S SESSION

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### Public Session

**May 9, 2013**

**Thursday, May 9, 2013 – 8:30 a.m. Pacific Time ±**

California Department of Education

1430 N Street, Room 1101

Sacramento, California 95814

- Call to Order
- Salute to the Flag
- Closed Session
- Communications
- Announcements
- Report of the State Superintendent of Public Instruction
- Special Presentations

*Public notice is hereby given that special presentations for informational purposes may take place during this session.*

- Agenda Items
- Adjournment

## AGENDA ITEMS

[Item 12](#) (DOC)

**Subject:** Consideration of “Reasonable Basis”/Mitigating Circumstances Requests for Determination of Funding as required for Nonclassroom-based Charter Schools Pursuant to California *Education Code* sections 47612.5 and 47634.2, and associated *California Code of Regulations*, Title 5.

**Type of Action:** Action, Information

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## PUBLIC HEARINGS

Public Hearings on the following agenda items will commence no earlier than 9:00 a.m. on Thursday, May 9, 2013. The Public Hearings will be held as close to 9:00 a.m. as the business of the State Board permits.

[Item 13](#) (DOC)

**Subject:** Appeal of Actions by the Orange County Committee on School District Organization to Disapprove a Petition to Transfer Territory from the Orange Unified School District to the Saddleback Valley Unified School District.

**Type of Action:** Action, Information, Hearing

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[Item 14](#) (DOC)

**Subject:** Certification of an Environmental Impact Report for the Proposed Formation of Wiseburn Unified School District from Wiseburn Elementary School District and a Portion of Centinela Valley Union High School District in Los Angeles County.

**Type of Action:** Action, Information, Hearing

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[Item 15](#) (DOC)

**Subject:** Proposed Formation of a Wiseburn Unified School District from the Wiseburn Elementary School District and a Portion of the Centinela Valley Union High School District in Los Angeles County.

**Type of Action:** Action, Information, Hearing

**END OF PUBLIC HEARINGS**

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[Item 16](#) (DOC)

**Subject:** PUBLIC COMMENT.

Public Comment is invited on any matter **not** included on the printed agenda. Depending on the number of individuals wishing to address the State Board, the presiding officer may establish specific time limits on presentations.

**Type of Action:** Information

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[Item 17](#) (DOC; 1MB)

**Subject:** Update of Special Education Regulations—Approve Commencement of the Rulemaking Process for Amendments to the California Code of Regulations, Title 5, Sections 3001–3088.

**Type of Action:** Action, Information

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[Item 18](#) (DOC)

**Subject:** Consideration of Requests for Determination of Funding as Required for Nonclassroom-based Charter Schools Pursuant to California *Education Code* sections 47612.5 and 47634.2, and associated *California Code of Regulations*, Title 5.

**Type of Action:** Action, Information

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[Item 19](#) (DOC)

**Subject:** Assignment of Numbers for Charter School Petitions.

**Type of Action:** Action, Information

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[Item 20](#) (DOC)

**Subject:** Approval of 2012–13 Consolidated Applications.

**Type of Action:** Action, Information

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[Item 21](#) (DOC)

**Subject:** Elementary and Secondary Education Act: Approval of Local Educational Agency Plans, Title I, Section 1112.

**Type of Action:** Action, Information

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[Item 22](#) (DOC; 3MB)

**Subject:** Elementary and Secondary Education Act: School Improvement Grant: Request for a Tydings Amendment Waiver for Federal Fiscal Year 2010; Federal Fiscal Year 2011 Funds and Carryover Limitation Waiver for Federal Fiscal Year 2012.

**Type of Action:** Action, Information

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[Item 23](#) (DOC)

**Subject:** Elementary and Secondary Education Act: Supplemental Educational Services Providers: Approval of Additional Providers

to the 2013–15 State Board of Education-Approved Supplemental Educational Services Provider List Based on Appeal, Including Local Educational Agencies Identified for Improvement Based on a Waiver Granted by the U.S. Department of Education Under the Elementary and Secondary Education Act, Section 9401.

**Type of Action:** Action, Information

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[Item 24](#) (DOC)

**Subject:** Request by Chula Vista Elementary School District regarding California *Education Code* sections 17515 through 17526, Joint Public/Private Occupancy Proposal, allowing the Chula Vista Elementary School District and South Bay Family Young Men's Christian Association (YMCA) to enter into leases and agreements relating to real property and buildings to be used jointly by the district and the South Bay Family YMCA.

**Type of Action:** Action, Information

- [Item 24 Attachment 1](#) (PDF)
- [Accessible Alternative Version \(AAV\) of Item 24 Attachment 1](#)
- [Item 24 Attachment 2](#) (DOC)
- [Item 24 Attachment 3](#) (DOC)

## ADJOURNMENT OF MEETING

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**This agenda is posted on the [State Board of Education's Web site](http://www.cde.ca.gov/be/ag/)** [http://www.cde.ca.gov/be/ag/]. For more information concerning this agenda, please contact the State Board of Education at 1430 N Street, Room 5111, Sacramento, CA, 95814; telephone 916-319-0827; facsimile 916-319-0175. Members of the public wishing to send written comments about an agenda item to the board are encouraged to send an electronic copy to [SBE@cde.ca.gov](mailto:SBE@cde.ca.gov), with the item number clearly marked in the subject line. In order to ensure that comments are received by board members in advance of the meeting, materials must be received by 12:00 p.m. on the Monday before the meeting.

Questions: State Board of Education | 916-319-0827

Last Reviewed: Friday, April 26, 2013

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# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 01**



# CALIFORNIA STATE BOARD OF EDUCATION

## MAY 2013 AGENDA

### SUBJECT

STATE BOARD PROJECTS AND PRIORITIES.

Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; Bylaw review and revision; Board policy; approval of minutes; Board liaison reports; training of Board members; and other matters of interest.

☒ Action

☒ Information

☐ Public Hearing

### SUMMARY OF THE ISSUE(S)

1. SBE Draft Preliminary Report of Actions/Minutes for the March 13-14, 2013 meeting
2. Board member liaison reports

### RECOMMENDATION(S)

The SBE staff recommends that the SBE approve the Preliminary Report of Actions/Minutes for the March 13-14, 2013 meeting. (Attachment 1)

### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At each regular meeting, the SBE has traditionally had an agenda item under which to address "housekeeping" matters, such as agenda planning, non-closed session litigation updates, non-controversial proclamations and resolutions, bylaw review and revision, Board policy; Board minutes; Board liaison reports; and other matters of interest. The State Board has asked that this item be placed appropriately on each agenda.

### FISCAL ANALYSIS (AS APPROPRIATE)

Not applicable.

### ATTACHMENT(S)

Attachment 1: State Board of Education Draft Preliminary Report of Actions/Minutes for the January 16, 2013 meeting (18 Pages) may be viewed at the following link: [Preliminary Report of Actions for March 13-14, 2013](#).



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 02**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

SUBJECT	
Update on the Activities of the California Department of Education and State Board of Education Regarding Implementation of Common Core State Standards Systems.	<input checked="" type="checkbox"/> Action <input checked="" type="checkbox"/> Information <input type="checkbox"/> Public Hearing



#### SUMMARY OF THE ISSUE(S)

This agenda item is the twelfth in a series of regular updates to inform the State Board of Education (SBE) and public regarding Common Core State Standards (CCSS) systems implementation activities.

#### RECOMMENDATION

The California Department of Education (CDE) recommends that the SBE take action as deemed necessary and appropriate but recommends no specific action at this time.

#### BRIEF HISTORY OF KEY ISSUES

When the SBE adopted the CCSS with additions in 2010, these standards became the current subject-matter standards in English language arts and mathematics. The full implementation of these standards will occur over several years as a new system of CCSS-aligned curriculum, instruction, and assessment is developed.

#### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

**July 2011-March 2013:** The CDE presented to the SBE a series of regular updates on the implementation of the CCSS.

**March 2012:** The SBE unanimously voted to present, in partnership with the State Superintendent of Public Instruction (SSPI), the CCSS Systems Implementation Plan for California to the Governor and the California State Legislature thereby fulfilling the

## **SUMMARY OF PREVIOUS (Cont.)**

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requirements of California *Education Code* Section 60605.8 (h).

**June 2011:** Governor Edmund G. Brown, Jr., SSPI Tom Torlakson, and SBE President Michael Kirst signed the memorandum of understanding for California's participation as a governing state in the Smarter Balanced Assessment Consortium (SBAC). California was previously a participating state in the Partnership for the Assessment of Readiness for College and Careers (PARCC).

**November 2010:** The CDE presented to the SBE an update on the implementation of the CCSS. This update was provided at the joint meeting between the SBE and the Commission on Teacher Credentialing (See agenda at <http://www.cde.ca.gov/be/pn/pn/ctcsbeagenda08nov2010.asp>).

**August 2010:** Pursuant to Senate Bill X5 1, the SBE adopted the academic content standards in English language arts and mathematics as proposed by the California Academic Content Standards Commission (ACSC); the standards include the CCSS and specific additional standards that the ACSC had deemed necessary to maintain the integrity and rigor of California's already high standards.

**May 2009:** The SSPI, the Governor of California, and the SBE President agreed to participate in the Council of Chief State School Officers and the National Governors Association Center for Best Practices initiative to develop the CCSS as part of California's application to the federal Race to the Top grant.

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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The cost of implementing the CCSS is significant, but will be offset by the improved efficiencies, benefits of shared costs with other states, and the shifting of current costs to CCSS activities. Currently, the CDE is providing free professional learning support via webinars and presentations and is providing ongoing guidance to the field for transitioning to the CCSS. In terms of instructional materials, costs will span multiple years but will be offset by access to a national market of materials and greater price competition in so long as California does not add state-specific evaluation criteria. Nonetheless, the implementation of new CCSS-aligned assessments, professional learning supports, and instructional materials will require a shifting and infusion of new resources.

## **ATTACHMENT(S)**

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Attachment 1: Common Core State Standards Systems Implementation Plan  
Highlights: March–April 2013 (3 pages)

Attachment 2: CCSS Implementation Outreach: State Board and Department of  
Education Activities (10 pages)





## Common Core State Standards Systems Implementation Plan Highlights: March–April 2013

### **1. Facilitate high quality professional learning opportunities for educators to ensure that every student has access to teachers who are prepared to teach to the levels of rigor and depth required by the CCSS.**

- ◆ The California Department of Education (CDE) has released a new addition to the collection of Common Core State Standards (CCSS) professional learning modules (PLMs) for educators. The new module, English Language Arts: Writing to Inform, Argue, and Analyze, embeds lessons that reflect key shifts in teaching writing as emphasized by the CCSS.

Five online PLMs are currently available for teachers to access independently or for schools or districts to use as facilitated professional learning. The PLMs were designed to deepen educators' understanding of the CCSS; instructional strategies to support the learning of all pupils, including English learners, pupils with disabilities, and underperforming pupils; and instructional strategies that promote creativity, innovation, critical thinking, problem solving, collaboration, and communication skills in all academic content areas.

The modules are located on the Brokers of Expertise Web site located at <http://www.myboe.org>. The Brokers of Expertise Web site also offers resources and a platform for questions about the CCSS. Additional modules are being developed and will be available before September 2013. More information is available on the CDE Professional Learning Modules for Educators Web page at <http://www.cde.ca.gov/re/cc/ccssplm.asp>.

- ◆ On Wednesday, April 3, 2013, the CDE hosted a showcase of work in the field preparing teachers for transitioning to the CCSS for mathematics and English language arts and literacy in history/social studies, science, and technical subjects. Five Improving Teacher Quality (ITQ) grant recipients presented professional learning models, best practices, and lessons learned from their work on CCSS implementation.

The work resulted from proposals originally selected in 2011 as part of Federal Title II, Part A ITQ (formerly the California Postsecondary Education Commission) competitive state grants program for institutions of higher education. The grants are intended to develop lasting connections between institutions of higher education and kindergarten through grade twelve (K–12) schools to improve teacher professional learning. This

round of grants focused on strengthening teacher content knowledge and abilities as related to the CCSS. Each project delivers intensive, year-round sustained, evidence-based, content-rich professional learning that is grounded in the needs of teachers, students, and schools in alignment with state standards and overall student achievement. The projects presented at the showcase were selected because their professional learning model has been adopted district-wide or is being emulated throughout the county or region. More information about the showcase and ITQ grant recipients is available on the Brokers of Expertise Improving Teacher Quality Web page at <http://myboe.org/portal/default/Group/Viewer/GroupView?action=2&gid=3181>.

## **2. Provide CCSS-aligned instructional resources designed to meet the diverse needs of all students.**

- ◆ The Instructional Quality Commission (IQC) convened at the CDE on March 21–22, 2013. Commissioners reviewed and approved the draft revised *Mathematics Framework for California Public Schools, Kindergarten Through Grade Twelve* and were presented updates on a number of CCSS systems implementation activities. The meeting also featured a presentation regarding the Basal Alignment Project from Student Achievement Partners representatives Meredith and David Liben. More information regarding the IQC and the agenda for its March 2013 meeting is available on the SBE IQC Web page at <http://www.cde.ca.gov/be/cc/cd/index.asp>.
- ◆ Facilitated by Achieve, Inc., Educators Evaluating Quality Instructional Products (EQuIP) is a collaborative of states that are focused on increasing the supply of quality instructional materials that are aligned to the CCSS. EQuIP teams are learning how to use tools and processes to review the quality of materials and will ultimately take the tools, training, and processes back to their states to increase the capacity of their teachers and districts to identify quality instructional materials, including online educational resources. In April, CDE staff participated in an EQuIP meeting to practice using and provide feedback on a proposed framework for using student work to inform the evaluations on the alignment and quality of instructional materials.
- ◆ Information regarding the appointment of Instructional Materials Reviewers, Content Review Experts, and Non-Instructional Quality Commissioner Facilitators; approval of reviewer training materials; approval of revision to the schedule of significant events; and approval of publisher fee reduction requests for the 2014 mathematics primary adoption of instructional materials is provided in Item 8.
- ◆ Information regarding the approval of reviewers for the English Language Development supplemental instructional materials review is provided in Item 9.

**3. Develop and transition to CCSS-aligned assessment systems to inform instruction, establish priorities for professional learning, and provide tools for accountability.**

- ◆ An update on regarding statewide assessment transition and Smarter Balanced assessment resources and development activities is provided in Item 3.

**5. Collaborate with the postsecondary and business communities to ensure that all students are prepared for success in career and college.**

- ◆ The Educating for Careers conference; held March 10, 2013 through March 12, 2013 in Sacramento; hosted many presentations related to the CCSS. CDE staff conducted numerous presentations related to the newly revised Career Technical Education (CTE) Model Curriculum Standards as well as the integration of the CCSS and the CTE standards.

**7. Design and establish systems of effective communication among stakeholders to continuously identify areas of need and disseminate information.**

- ◆ The CDE promotes new CCSS-related resources via the CDE CCSS Web page and listserv. Summary of Web-based Outreach Data:

	February	March	April
<b>Listserv Subscribers</b>	6,233	6,801	Available May 1
<b>Total Web Page Hits</b>	248,480	253,159	Available May 1

- ◆ A summary of select outreach and communications activities of the CDE and SBE is provided in Attachment 2 of this item.

## Common Core State Standards Implementation Outreach State Board and Department of Education Activities

**Engage partners in facilitating two-way communication and leverage local and state implementation activities.**

Dates/Events	Participants	Reflections and Insights
<b>February 11, 2013</b>  Present to CDE staff and webinar of varied participants	<b>5 teachers and administrators</b>  <b>California Department of Education (CDE)/State Board of Education (SBE)</b> <b>Team:</b> Carolyn Zachry	Presentation on the Career Technical Education (CTE) Model Curriculum standards including alignment to the Common Core State Standards (CCSS) in conjunction with CTE month.
<b>February 23, 2013</b>  Present National Association of School Administrators (ACSA) national conference	<b>50 administrators</b>  <b>CDE/SBE Team:</b> Carolyn Zachry	Presentation on the CTE Model Curriculum standards including alignment to the CCSS.

Dates/Events	Participants	Reflections and Insights
<b>March 1, 2013</b>  Present to California League of Middle Schools	<b>60 educators</b>  <b>CDE/SBE Team:</b> Barbara Murchison Joy Kessel	Present an update on CCSS implementation, timelines and resources.
<b>March 8, 2013</b>  <b>Present annual Common Core Convening</b>	<b>150 teacher/administrator teams from across the state + 50 CDE Staff</b>  <b>CDE/SBE Team:</b> <b>Multiple staff from CDE</b>	Presentation on updates on the CCSS Implementation work in progress and a focus on Communications Tools, Resource development, Smarter Balanced Assessment Consortium (SBAC) item development, pilot assessments, and technology readiness goals. Four district teams, Mark West (Sonoma), Corona Norco Unified, Elk Grove Unified, and Santa Ana Unified, also shared implementation strategies in progress.  Insight: it is so important for districts to be sharing their promising practices, accomplishments and challenges with other districts to help build statewide momentum for CCSS implementation.
<b>March 10-12, 2013</b>  <b>Present to annual Educating for Careers Conference</b>	<b>50 teachers and administrators</b>  <b>CDE/SBE Team:</b> Carolyn Zachry	Presentation on CTE Model Curriculum standards including alignment to the CCSS.

<b>Dates/Events</b>	<b>Participants</b>	<b>Reflections and Insights</b>
<b>March 12 and 14, 2013</b>  <b>Present Annual California Charter Schools Conference,</b>	<b>500 California Charter School educators</b>  <b>CDE/SBE Team: Jessica Barr, Jessica Valdez, Nancy Brownell</b>	Presentation on State Superintendent for Public Instruction (SSPI) recommendations for transitioning to a new assessment system, Smarter Balanced resources and development activities, and CCSS implementation resources and planning strategies.
<b>March 18, 2013</b>  <b>Present to ACSA Legislative Action Committee</b>	<b>60 administrators</b>  <b>CDE/SBE Team: Nancy Brownell, Erin Gabel</b>	Presentation on CCSS implementation updates and legislative priorities of the SSPI.
<b>March 20, 2013</b>  <b>Regional Assessment Network Meeting</b>	<b>15 County Office Assessment Leads</b>  <b>CDE/SBE Team: Jamie Contreras</b>	Provide updates on the California Common Core Convening feedback, Smarter Balanced initial achievement level descriptors, and the Smarter Balanced Digital Library timeline and activities.
<b>March 20, 2013</b>  <b>Region 3 Administrator Breakfast</b>	<b>55 district and county staff</b>  <b>CDE/SBE Team: Jose Ortega</b>	Provide updates on SBAC technology readiness findings, pilot test timelines, and other topics related to technology expectations for SBAC implementation in California.

<b>Dates/Events</b>	<b>Participants</b>	<b>Reflections and Insights</b>
<b>March 21/22, 2013</b>  <b>Update to IQC</b>	<b>Instructional Quality Commission (IQC)</b>  <b>CDE/SBE Team:</b> <b>Barbara Murchison,</b> <b>Jessica Barr</b>	Presentation on CCSS and Smarter Balanced implementation activities of CDE and SBE.
<b>March 21, 2013</b>  <b>Present to Bilingual Coordinators Network</b>	<b>15 Coordinators and others</b>  <b>CDE/SBE Team:</b> <b>Jessica Barr</b>	Presentation on SSPI's recommendations for transitioning to a new assessment system, and Smarter Balanced resources and development activities.
<b>March 22, 2013</b>  <b>Present CTA Good Teaching Conference</b>	<b>200 teachers</b>  <b>CDE/SBE Team:</b> <b>Barbara Murchison,</b> <b>Jane Liang</b>	Presentation on CCSS Mathematics standards, instructional shifts, resources for teachers and implications for instruction, and overview of Smarter Balanced math performance tasks.
<b>March 22, 2013</b>  <b>Present update on Smarter Balanced</b>	<b>CDE Staff</b>  <b>CDE/SBE Team:</b> <b>Jessica Barr</b>	Presentation on Smarter Balanced resources and development activities.

Dates/Events	Participants	Reflections and Insights
<b>March 22, 2013</b>  <b>Videoconference presentation to the 11 regions of the County Superintendents Curriculum and Instruction Steering Committee (CISC) leadership</b>	<b>60 administrators</b>  <b>CDE/SBE Team:</b> <b>Nancy Brownell, Keric Ashley</b>	Presentation on the CCSS and SBAC Updates, specifically related to actions taken at the March SBE meeting.
<b>April 2, 2013</b>  <b>Debrief Higher Education February 22 Convening</b>	<b>4 higher education SBAC Leads</b>  <b>CDE/SBE Team:</b> <b>Deb Sigman, Nancy Brownell, Barbara Murchison</b>	Review feedback from February 22 Convening of higher education faculty and leadership from community colleges, California State University (CSU), and University of California (UC) and plan next steps.
<b>April 4, 2013</b>  <b>Meet with San Mateo County Office of Education</b>	<b>20 San Mateo COE staff</b>  <b>CDE/SBE Team:</b> <b>Nancy Brownell</b>	Discuss CCSS implementation priorities and share strategies for developing promising practices and on line community sharing.



<b>Dates/Events</b>	<b>Participants</b>	<b>Reflections and Insights</b>
<b>April 6, 2013</b>  <b>Present to CTA State Council</b>	<b>20 San Mateo COE staff</b>  <b>CDE/SBE Team: Deb Sigman</b>	Discuss SBAC and SSPI's assessment recommendations.
<b>April 8, 2013</b>  <b>Meet with Michael Fullan, worldwide authority on educational reform</b>	<b>CDE staff</b>  <b>CDE/SBE Team: Executive Staff and SBE staff</b>	Learn and share strategies to increase staff leadership, understanding and collective capacity to support educators at all levels of the system to learn from and with one another with a focus and coherent strategies for supporting improved learning for students through CCSS implementation.
<b>April 9, 2013</b>  <b>Present to CTA State Council</b>	<b>20 San Mateo COE staff</b>  <b>CDE/SBE Team: Linda Hooper</b>	Presentation on SBAC Initial Achievement Level Descriptors, College Content Readiness Policy, Pilot Test and Practice Test guidelines, and SBAC Digital Library.
<b>April 11, 2013</b>  <b>Planning meeting with Shasta COE staff on summer professional development goals</b>	<b>8 Shasta COE staff</b>  <b>CDE/SBE Team: Nancy Brownell</b>	Meet with and plan activities for June CCSS implementation Summer Institute for all district teams in the county.

Dates/Events	Participants	Reflections and Insights
<b>April 11, 2013</b>  <b>Present to Families in Schools</b>	<b>60 parents</b>  <b>CDE/SBE Team: Barbara Murchison</b>	Present an update on CCSS implementation, timelines and resources.
<b>April 11, 2013</b>  <b>Videoconference with CISC Regional Leads on developing criteria for CCSS implementation promising practices</b>	<b>11 Regional Leads across the state</b>  <b>CDE/SBE Team: Nancy Brownell</b>	Discuss and review responses from each of the 11 regions on brainstorming sessions responding to the following questions: <ol style="list-style-type: none"> <li>1. What criteria and/or foundational framework would be useful to the field in identifying emerging and promising practices to be shared?</li> <li>2. What validity and/or success indicators need to be included so that the practices are having a positive impact on student success and implementation goals that also keep the options open for innovations and work in progress?</li> <li>3. Should this be connected to Brokers of Expertise? Another specific website? Is it a set of resources or an online community? Both? What medium would be most useful to educators?</li> <li>4. Other thoughts?</li> </ol>

Dates/Events	Participants	Reflections and Insights
<b>April 11, 2013</b> <b>Yolo COE</b> <b>April 17, 2013</b> <b>Fresno COE</b> <b>April 22, 2013</b> <b>Santa Clara COE</b> <b>May 2, 2013</b> <b>LACOE</b> <b>May 3, 2013</b> <b>Contra Costa COE</b> <b>May 6, 2013</b> <b>San Diego COE</b> <b>May 14, 2013</b> <b>San Bernardino COE</b>	<b>200 teachers and administrators</b>  <b>CDE/SBE Team:</b> <b>Carolyn Zachry</b>	<p>Present CTE standards professional development, trainer of trainer delivery workshops. This is a collaborative effort by county office and department staff to develop in depth professional learning opportunities for linking CTE and CCSS instruction within the context of real world and applied learning. CISC Leadership for CTE from across the state are partnering with CDE for this project and roll out.</p>
<b>April 12, 2013</b>  <b>Update to CDE staff on SBAC</b>	<b>CDE/SBE Team:</b> <b>Jessica Valdez</b>	<p>Provide update and discuss SBAC resources and development activities.</p>
<b>April 15, 2013</b>  <b>Present to California Teacher Corp program leadership</b>	<b>100 educators</b>  <b>CDE/SBE Team:</b> <b>Nancy Brownell</b>	<p>Provide update on CCSS and SBAC implementation timelines, resources and communication strategies to increase alternative certification leaders' knowledge and understanding of CCSS Systems Implementation.</p>

Dates/Events	Participants	Reflections and Insights
<b>April 16, 2013</b>  <b>WebEx presentation for interested educators</b>	<b>100 participants</b>  <b>CDE/SBE Team: Carrie Roberts, SMCOE staff</b>	Presentation responds to requests from educators for CDE to provide a more in depth opportunity to view and interact with the online CCSS Mathematics Learning Progressions Professional Learning Module, developed by the San Mateo COE (SMCOE) in collaboration with CDE. The webinar explores the module in more detail and provides information on how to access it as a group facilitator or as an independent user.
<b>April 16, 2013</b>  <b>Presentation to Solano County educators at their "Transitioning to Smarter Balanced Assessment Conference"</b>	<b>100 teachers and administrators</b>  <b>CDE/SBE Team: Deb Sigman, Nancy Brownell, Barbara Murchison, Jose Ortega, Jessica Valdez</b>	Provide an update and resources on CCSS and SBAC implementation priorities including transitions to new assessment system, SBAC 101, exploration of SBAC sample items and performance tasks, Depth of Knowledge (DOK) expectations and development of local planning priorities for implementation.
<b>April 25, 2013</b>  <b>WebEx presentation for interested educators</b>	<b>100 participants</b>  <b>CDE/SBE Team: Carrie Roberts, SMP staff</b>	Presentation responds to requests from educators for CDE to provide a more in depth opportunity to view and interact with the online CCSS Mathematics Progressions Professional Learning Module, developed by the California Math Subject Matter Project (SMP) in collaboration with CDE. The webinar explores the module in more detail and provides information on how to access it as a group facilitator or as an independent user.

Dates/Events	Participants	Reflections and Insights
<b>April 26, 2013</b>  <b>Meet with CA State Foster Parent Association</b>	<b>30 members</b>  <b>CDE/SBE Team:</b> <b>Barbara Murchison</b>	Present an update on CCSS implementation, timelines and resources.
<b>April 27 &amp; 28, 2013</b>  <b>Present to ACSA North and South State Spring Conferences</b>	<b>100 educators</b>  <b>CDE/SBE Team:</b> <b>Carolyn Zachry</b>	Presentation on the CTE Model Curriculum Standards and their alignment to the CCSS.
<b>May 3, 2013</b>  <b>Present to California Federation of Teachers conference participants</b>	<b>100 participants</b>  <b>CDE/SBE Team:</b> <b>Carrie Roberts, Emily Oliva</b>	Presentations for participating teachers on SBAC items and resources, strategies for implementing Mathematics and ELA CCSS, and leadership strategies.



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 03**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### SUBJECT

Update on Statewide Assessment Transition and Smarter Balanced Assessment Resources and Development Activities.

- ☐ Action
- ☒ Information
- ☐ Public Hearing

#### SUMMARY OF THE ISSUE(S)

On January 8, 2013, the State Superintendent of Public Instruction (SSPI) submitted a legislatively-mandated report to the Legislature with recommendations for the reauthorization of the statewide student assessment system. This report served as a starting point for discussions between the California Department of Education (CDE), the State Board of Education (SBE), and the Legislature regarding the development of legislation to implement California's future assessment system. This item provides an update on legislative activity as well as Smarter Balanced Assessment Consortium (SBAC) assessment resources and development activities, including, but not limited to, the consortium's sustainability plan, initial achievement level descriptors, and college content readiness policy (see Attachments 1 and 2).

At the May 2013 SBE meeting, Joe Willhoft, SBAC Executive Director, will present an update to the SBE on the following topics: SBAC implementation timeline, the 2013 pilot and practice tests, the 2014 field test, higher education collaboration activities, and assessment technology needs.

#### RECOMMENDATION

This is the second update to the SBE since the release of the SSPI's report to the legislature, *Recommendations for Transitioning California to a Future Assessment System*. At this time, no specific action is recommended.

#### BRIEF HISTORY OF KEY ISSUES

Authorization for the Standardized Testing and Reporting (STAR) Program ends July 1, 2014. In response to California *Education Code (EC)* Section 60604.5, the SSPI began consulting with stakeholders in early 2012. Over the course of 2012, the CDE, the SBE, educational stakeholders, technical experts, and members of the public engaged in various discussions about the future of the assessment system in California. To facilitate the collaboration of these groups, the CDE created multiple opportunities for

stakeholders to provide feedback and suggestions. Outreach efforts included the convening of the Statewide Assessment Reauthorization Work Group, regional public meetings, and focus groups, as well as an online survey and a special e-mail account for receiving comments on the reauthorization from the public. Approximately 2,000 stakeholders provided input through one of these opportunities. The information gathered from stakeholders helped form the recommendations set forth by the SSPI, and the SSPI's report, *Recommendations for Transitioning California to a Future Assessment System*. The report can be found on the Statewide Pupil Assessment System Web page at <http://www.cde.ca.gov/ta/tg/sa/ab250.asp>. On February 19, 2013, Assembly Bill (AB) 484 was introduced by Assembly Member Bonilla to address the SSPI's recommendations, including activities to facilitate the reauthorization of California's statewide student assessment system and features of the future system. The most recent version of AB 484 may be found by searching for the bill (by the bill number) on the California Legislative Information Web page at <http://leginfo.ca.gov/faces/billSearchClient.xhtml>. The bill is currently scheduled to be heard by the Assembly Education Committee on May 1. Attachment 2 provides AB 484 language that addresses the SSPI recommendations regarding assessments.

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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In March 2013, the CDE presented the first update on the future statewide assessment system and Smarter Balanced assessment development activities, including the initial achievement level descriptors and college content readiness policy.

In January 2013, the CDE presented to the SBE the SSPI's recommendations for the future statewide assessment system and engaged in discussion with the SBE regarding the recommendations.

In November 2012, the SBE previewed and engaged in discussion with the CDE regarding the SSPI's intended purposes and guiding principles for the development of the California's future assessment system.

In September, July, May, and March 2012, the SBE received updates regarding the statewide assessment reauthorization activities, including summaries of stakeholder feedback.

In January 2012, the SBE was presented with the requirements of California *EC* Section 60604.5 and proposed activities and outreach efforts to develop the SSPI's recommendations.

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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None at this time.



**ATTACHMENT(S)**

Attachment 1: Update on Smarter Balanced Assessment Resources and Development Activities (3 Pages)

Attachment 2: Assembly Bill 484 (April 17, 2013 Version): Proposed *Education Code* Amendments Addressing the State Superintendent of Public Instruction's Recommendations for Reauthorization of the Statewide Assessment System (7 Pages) (An updated version is anticipated by April 30, 2013.)

Attachment 3: Assessment Transition PowerPoint (The attachment will be posted by May 1, 2013.)

## **Update on Smarter Balanced Assessment Resources and Development Activities**

### **Scientific Pilot Test Participation Status**

The Smarter Balanced Assessment Consortium scientific pilot test window closes May 24, 2013. In California, approximately 360,000 students from over 1,400 schools are participating. Staff from the California Department of Education (CDE) Assessment Development and Administration Division are observing the administration of pilot assessments at local schools and collecting feedback from school and district staff members regarding their experience with this computer-based pilot test. A verbal update on feedback received will be provided during the presentation of this item during the State Board of Education's May 2013 meeting.

### **Transition from a Volunteer Pilot Test to a Set of Practice Tests**

Smarter Balanced has modified its plans to administer a Volunteer Pilot Test and, instead, will release a more complete and broadly available set of "Practice Tests" in lieu of the Volunteer Pilot Test. The decision to change from a Volunteer Pilot to Practice Tests was in response to the high demand from principals, teachers, parents, and the public for access to the Volunteer Pilot Test.

The computer-based Practice Tests will be available for grades three through eight and grade eleven in both English language arts (ELA) and mathematics. The Practice Tests will include an array of item types, including selected response, constructed response, and performance tasks, and will be built using test blueprints similar to those for the operational tests. In addition, the Practice Tests will support several accommodations, such as text-to-speech, item-level pop-up Spanish glossaries for construct irrelevant terms (mathematics tests only), Braille, and American Sign Language. With the Practice Test, teachers will be able to construct simulated assessment events for their students.

The launch of the Practice Tests will occur on May 29, 2013, which is later than the anticipated release of the original Volunteer Pilot Test. While this later start date may not allow many schools to engage with this test this school year, the Practice Tests will remain available through next school year. In addition, online access to the Practice Tests will not require a unique username and password, meaning that schools and districts can use the Practice Tests for professional development activities and for discussions with parents, policymakers, and other interested stakeholders.

The change from a Volunteer Pilot Test to a Practice Tests does not impact the Scientific Pilot Test. All schools registered for the Scientific Pilot Test will continue to test as scheduled.

## **Smarter Balanced Authorized to Establish an Affiliate Relationship with the National Center for Research on Evaluation, Standards, and Student Testing**

At the Smarter Balanced collaboration meeting in March 2013, chief state school officers of the Smarter Balanced governing states approved Smarter Balanced to move forward in establishing an affiliate relationship with the National Center for Research on Evaluation, Standards, and Student Testing (CRESST) at the University of California, Los Angeles. With this approval, Smarter Balanced has initiated negotiations with CRESST and will draft an organizational plan and revised set of bylaws to take effect after the conclusion of the consortium's federal grant in 2014.

## **Initial Achievement Level Descriptors and College Content Readiness Policy**

Chief state school officers of the Smarter Balanced governing states have approved the initial achievement level descriptors (ALDs) and college content readiness policy for Smarter Balanced assessments. The initial ALDs are based on four levels of achievement that describe student performance on the Smarter Balanced assessments for English language arts/literacy and mathematics. Smarter Balanced is developing an integrated suite of ALDs that serve different purposes for item writing, standard setting, and reporting of results. Reporting ALDs—which will provide guidance to students and parents about how to interpret performance on the assessments—will be developed in 2014 following standard setting. Related to the initial ALDs, the college content readiness policy framework is part of a critical effort to ensure that the Smarter Balanced grade eleven summative assessment can be used as evidence that students are ready for entry-level, transferable, credit-bearing courses in English and mathematics and should be exempted from remedial coursework. The complete English language arts/literacy and mathematics initial ALDs and college content readiness policy are available on the Smarter Balanced Achievement Level Descriptors and College Content Readiness Web page at <http://www.smarterbalanced.org/achievement-level-descriptors-and-college-readiness/>.

## **Digital Library of Formative Assessment Tools and Practices**

Smarter Balanced has selected Amplify Insight, formerly known as Wireless Generation, to design and implement a digital library of formative assessment tools and practices for the consortium's assessment system. The digital library will be an interactive professional development tool for teachers. It will include such resources as documents, videos, formative assessment tools, sample summative and interim test items, and a work area to help teachers identify and use the best resources for their needs.

Among his recommendations to the Legislature regarding the reauthorization of California's statewide student assessment system, Superintendent Torlakson recommended that the state invest in formative assessment tools, including the purchase of the Smarter Balanced digital library, to provide all California LEAs with equal access to these resources.

To assist in the development of criteria for resources to be included in the digital library, Smarter Balanced has convened a national panel of experts in formative assessments and professional learning as well as a four-member work group of representatives from member states. Laura Watson, Education Programs Consultant in the CDE Statewide Assessment Transition Office, is part of the work group that will be working directly with this national panel of experts. The work group and panel are meeting during April and May 2013 to establish the quality criteria for digital library resources.

Each Smarter Balanced member state will create its own State Leadership Team (SLT) to recruit and monitor its State Network of Educators who will be the entity to review resources that are submitted for inclusion in the digital library. The CDE is in the process of establishing California's SLT and Laura Watson will be the lead on the project.

The SLT will recruit approximately 150 California educators for the State Network of Educators. The State Network of Educators will include representatives from primary, elementary, secondary, and higher education. Each member will have expertise and experience in one or more of the following key areas: mathematics, English-Language Arts, English Language Learners, Students with Disabilities, and site administration. Recruitment of these educators is expected to begin in May 2013.

### **Accommodations and Accessibility Policy Framework to Be Released for Public Review**

The Smarter Balanced policy framework that will assist local educational agencies (LEAs) in determining the assessment accessibility needs of students with disabilities and English learners is expected to be released for public review and feedback in May 2013. The *Accommodations and Accessibility Policy Framework* provides guidance on how the accessibility needs of English learners and students with disabilities will be met through item design and delivery methods for a digital environment as well as by LEA staff. It was developed with input from experts in assessment of English learners and students with disabilities, as well as experts in computer adaptive testing. Feedback received from this public review period will inform a larger guiding document that is expected to be released in August 2013.

**Assembly Bill 484 (April 17, 2013 Version): Proposed Education Code Amendments  
Addressing the State Superintendent of Public Instruction's Recommendations for  
Reauthorization of the Statewide Assessment System**

Assembly Bill (AB) 484 (Bonilla), introduced February 19, 2013 and amended on April 17, 2013, seeks legislative authority to implement recommendations made by the State Superintendent of Public Instruction (SSPI) for establishing the California Measurement of Academic Performance and Progress for the 21<sup>st</sup> Century (CALMAPP21), which would succeed the existing Standardized Testing and Reporting Program (STAR). AB 484 makes amendments and additions to establish and implement the CALMAPP21. Selected sections of AB 484 that specifically address the SSPI recommendations are provided in the table on the following page.

State Superintendent of Public Instruction Recommendation	Assembly Bill 484 Proposed Education Code Amendment
<p><b>Recommendation 1 – Suspend Portions of the Standardized Testing and Reporting Program Assessments and Adjust the Academic Performance Index to Reflect Suspension of Such Assessments</b></p>	<p><b>Section 60640.3(a)(1)(A)</b> Notwithstanding any other law, commencing with the 2013-14 school year, the administration of assessments required as part of the Standardized Testing and Reporting Program shall be suspended, except for those assessments in the core subjects necessary to satisfy the adequate yearly progress requirements of the federal No Child Left Behind Act of 2001 (Public Law 107-110; 20 U.S.C. Sec. 6301 et seq.) in grades 3 to 8, inclusive, and grade 10, and those assessments augmented for use as part of the Early Assessment Program established by Chapter 6 (commencing with Section 99300) of Part 65 of Division 14 of Title 3 in grade 11, until new assessments addressing the common core state standards are developed and implemented.</p>
<p><b>Recommendation 2 – Beginning in the 2014-15 School Year, Fully Implement the SBAC ELA and Mathematics Assessments</b></p>	<p><b>Section 60642.5(a)(2)</b> For the subject areas of English language arts and mathematics for grades 3 to 8, inclusive, and grade 11, the department shall administer consortium summative assessments pursuant to the consortium administration directions.</p> <p><b>60640.3(b)</b> Notwithstanding any other law, commencing with the 2014-15 school year, all local educational agencies and charter schools shall administer the consortium assessments in English language arts and mathematics summative assessments in grades 3 to 8, inclusive, and grade 11, and use these assessments to replace previously administered Standardized Testing and Reporting Program assessments in those subject areas to satisfy the federal accountability requirements of the federal Elementary and Secondary Education Act (Public Law 107-110; 20 U.S.C. Sec. 6301 et seq.).</p>

State Superintendent of Public Instruction Recommendation	Assembly Bill 484 Proposed Education Code Amendment
<b>Recommendation 3 – Use the Grade Eleven SBAC ELA and Mathematics Assessments as an Indicator of College Readiness</b>	<p><b>Section 99300(a)(1)</b> The Legislature finds and declares that, commencing with the 2014–15 school year and for purposes of the Early Assessment Program established by this chapter, the California Standards Test and the augmented California Standards tests in English language arts and mathematics should be replaced with the grade 11 consortium assessments in English language and mathematics.</p>
<b>Recommendation 4 – Develop and Administer Science Assessments Aligned to the New Science Standards, Once Adopted</b>	<p><b>Section 60642.5(a)(3)(A)</b> For science assessments used to satisfy federal accountability requirements, the superintendent shall make a recommendation to the state board within 6 months of the adoption of science content standards pursuant to Section 60605.85.</p> <p><b>Section 60642.5(a)(3)(A)</b> In consultation with stakeholders, including, but not limited to, California science teachers, individuals with expertise in assessing English learners and pupils with disabilities, parents, and measurement experts, the Superintendent shall make recommendations regarding the grade level, content, and type of assessment. The Superintendent shall consider the use of consortium developed assessments, innovative item types, computer-based testing, and a timeline for implementation.</p>
<b>Recommendation 5 – Develop or Use Multistate Consortia Alternate Assessments in ELA, Mathematics, and Science for Students with Severe Cognitive Disabilities</b>	<p><b>Section 60640(f)</b> Pursuant to Section 1412(a)(16) of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing requirement of subdivision (b) with appropriate accommodations in administration, where necessary, and those individuals with exceptional needs who are unable to participate in the testing, even with accommodations, shall be given an alternate assessment.</p>

State Superintendent of Public Instruction Recommendation	Assembly Bill 484 Proposed Education Code Amendment
	<p><b>60642.5(a)(1)</b></p> <p>The Superintendent, with the approval of the state board, shall provide for the development of assessments or the designation of assessments, including an alternate assessment pursuant to Section 60640, that measure the degree to which pupils are achieving the academically rigorous content standards adopted by the state board pursuant to Sections 60605, 60605.1, 60605.2, 60605.3, 60605.8, and 60605.85.</p>
<p><b>Recommendation 6 – Determine the Continued Need and Purpose of Academic Assessments in Languages Other than English Once the SBAC Assessments Are Operational</b></p>	<p><b>Section 60642.7</b></p> <p>Contingent on the appropriation of funding for this purpose, the Superintendent shall consult with stakeholders, including assessment and English learner experts, to determine if stand-alone English language arts and mathematics summative assessments in primary languages, languages other than English, are needed to supplement the consortium assessments. If it is determined that supplemental summative assessments are needed, the Superintendent shall consider the appropriate uses for these assessments, including, but not necessarily limited to, support for the State Seal of Biliteracy and accountability. The Superintendent shall report to the state board at a public meeting no later than November 30, 2015 <i>[expected to be amended to 2014]</i> on the determination of the need for stand-alone academic assessments in primary languages other than English, including, but not necessarily limited to, summative assessments in English language arts and mathematics.</p>
<p><b>Recommendation 7 – Assess the Full Curriculum Using Assessments that Model High-Quality Teaching and Learning Activities</b></p>	<p><b>Section 60642.5(a)(4)</b></p> <p>For ESEA nonrequired subject areas, including, but not limited to, science, mathematics, history-social science, technology, and visual and performing arts, the Superintendent shall consult with stakeholders and subject matter experts to develop a plan for assessing these content areas in a manner that models high-quality teaching and learning activities. The plan shall be presented to the state board for consideration and approval on or before January 15, 2014 <i>[expected to be amended to 2015]</i>. The state board-approved plan</p>



State Superintendent of Public Instruction Recommendation	Assembly Bill 484 Proposed Education Code Amendment
	<p>shall be submitted to the Governor, chairs of the education committees in both houses of the Legislature, and the chairs of the fiscal committees of both houses of the Legislature no later than March 1, 2015.</p> <p>(A) The plan shall consider the use of various assessment options, including, but not limited to, computer-based tests, locally scored performance tasks, and portfolios.</p> <p>(B) The plan shall explore the use of a state-determined assessment calendar that would schedule the assessment of ESEA nonrequired subject areas over several years, the use of matrix sampling, and the use of population sampling.</p> <p>(C) The plan shall include a timeline for implementation and cost estimates.</p> <p>(D) Upon the appropriation of funding for this purpose, the Superintendent shall develop and administer ESEA nonrequired subject area assessments. For each ESEA nonrequired subject area assessment, the state board shall approve test blueprints, achievement level descriptors, testing periods, performance standards, and a reporting plan.</p>
<p><b>Recommendation 8 – Invest in Interim, Diagnostic, and Formative Tools</b></p>	<p><b>Section 60642.6</b> Contingent on the appropriation of funding for this purpose, the department shall acquire and offer at no cost to school districts interim and formative assessment tools offered through the consortium membership pursuant to Section 60605.7.</p> <p><b>Section 60644.3</b> Contingent on the receipt of funding for this purpose, on or before December 1, 2014, the department shall identify existing assessments in language arts and mathematics available for purchase by schools and school districts that are appropriate for pupils in grade 2 for diagnostic use by classroom teachers. The purpose of these assessments shall be to aid teachers and to gain</p>

State Superintendent of Public Instruction Recommendation	Assembly Bill 484 Proposed Education Code Amendment
	information about the developing language arts and mathematical skills of pupils in grade 2.
<b>Recommendation 9 – Consider Alternatives to the Current California High School Exit Examination</b>	Not addressed in latest version of AB 484.
<b>Recommendation 10 – Explore the Possible Use of Matriculation Examinations</b>	Not addressed in latest version of AB 484.
<b>Recommendation 11 – Conduct Comparability Studies</b>	<p><b>Section 60604(d)</b> The Superintendent shall make information and resources available to the public regarding the CALMAPP21 including, but not limited to, system goals and purposes and program results and information on the relationship between performance on the previous state assessments and the CALMAPP21.</p>
<b>Recommendation 12 – Maintain a Continuous Cycle of Improvement of the Assessment System</b>	<p><b>Section 60649</b> (a) The department shall develop a three-year plan of activities supporting the continuous improvement of the assessments developed and administered pursuant to Section 60640. The plan shall include a process for obtaining independent, objective technical advice and consultation on activities to be undertaken. Activities may include, but not necessarily be limited to, a variety of internal and external studies such as validity studies, alignment studies, studies evaluating test fairness, testing accommodations, testing policies, reporting procedures, and consequential validity studies specific to pupil populations such as English learners and pupils with disabilities.</p> <p>(b) The department shall contract for a multiyear independent evaluation of the assessments. Annual independent evaluation reports shall include, but not necessarily be limited to, recommendations to improve the quality, fairness, validity, and reliability of the assessments.</p>

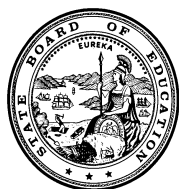
State Superintendent of Public Instruction Recommendation	Assembly Bill 484 Proposed Education Code Amendment
	(c) The independent evaluator shall report to the Governor, the Superintendent, the state board, and the chairs of the education policy committees in both houses of the Legislature by October 31 each year.



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 04**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### SUBJECT

Standardized Testing and Reporting Program: Final Results of the Science Computer-based Testing Tryout.

- ☐ Action
- ☒ Information
- ☐ Public Hearing

#### SUMMARY OF THE ISSUE(S)

The Science *Computer-Based Testing (CBT) Tryout Report* was developed by Educational Testing Service (ETS) as part of Amendment 8 to the California Department of Education's (CDE) current Standardized Testing and Reporting (STAR) Program testing contract. The CBT Tryout was designed to provide data that would assist the State Board of Education (SBE) and the CDE in assessing California's readiness for computer-based testing and to further inform preparations for the new assessment system beginning in 2014–15. ETS will present a brief summary of the CBT Tryout results to the SBE.

The CBT Tryout report consists of two parts. Part 1 includes details of recruiting and sampling procedures, training activities and materials, customer support procedures, security procedures, the results of observations of testing, and an analysis of pre-test and post-test survey responses collected from school and district staff. Part 1 also includes a summary of technical support provided to schools, and the observations of STAR Technical Assistance Center staff involved in the tryout. Part 2 provides results of a psychometric study based on the CBT Tryout data, and includes the following: item analyses, differential item functioning (DIF) analyses, regression analyses, factor analyses, and student responses to a post-testing questionnaire. The executive summary of the findings is provided as Attachment 1. The final report of the CBT Tryout will be available by May 1, 2013 on the CDE Web site at:  
<http://www.cde.ca.gov/ta/tg/sr/technicalrpts.asp>.

#### RECOMMENDATION

In February 2013 an information memorandum was provided regarding Part 1 of the CBT Report. The CDE is providing this as a discussion information only item to the SBE. No action is recommended at this time.

## **BRIEF HISTORY OF KEY ISSUES**

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The CBT was developed using the California science content standards for grades five and eight, and for high school end-of-course biology. The CBT assessed students' science performance through standard multiple-choice items as well as constructed-response items, and innovative CBT item types including simulations.

The CBT Tryout was administered from October 1–18, 2012, to a sample of 193 schools, selected to represent the range of California's demographic characteristics and technological capabilities. The sample consisted of 21,473 students from 180 non-charter and 12 charter schools. The CBT Tryout was administered using existing equipment at the testing school sites.

Student responses to test items were scored in two different ways. Multiple-choice items were scored during student testing, with test scores instantly available to local educational agency (LEA) administrators through the test administration system. Constructed-response items were scored after testing using human-calibrated artificial intelligence platforms.

Student test scores were analyzed to compare student and item performance on the CBT as compared to performance on the paper and pencil tests. Differential Item Functioning (DIF) analyses were conducted to assess the potential impact of CBT on specific subgroups including economically disadvantaged students, English learners, black students, and Hispanic students. The DIF analysis is a statistical procedure that is used to investigate potential performance differences among subgroups of interest by comparing overall performance of individuals with performance on specific items.

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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In February 2013, the SBE received an information memorandum that included a Summary of the CBT Preliminary Report that was provided to the CDE by ETS in early December 2012.

In March 2012, the SBE approved Amendment 8 to the CDE's STAR Program contract with ETS, which initiated the CBT Tryout.

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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The CBT Tryout was developed and administered using cost savings of Amendment 8 of the ETS contract.

## **ATTACHMENT(S)**

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Attachment 1: Executive Summary of the CBT Tryout Findings (2 Pages)

## **Executive Summary of the CBT Tryout Findings**

The CBT Tryout report summarizes the design, administration, and evaluation of the Standardized Testing and Reporting (STAR) Computer-based Testing (CBT) Tryout that was administered in October 2012.

The primary purpose of the STAR CBT Tryout was to obtain feedback from students, schools, and local educational agencies (LEAs) on their preparedness to administer tests on computer and to gain some information about items administered on the computer, both traditional multiple-choice (MC) items as well as new technology-enhanced (TE) item types, including multimedia items utilizing interactive animations, multiple-select response items incorporating drag-and-drop and hotspot functionalities, as well as virtual graphing items. This information will be used to inform future plans regarding the transition to CBT.

Three science tests—grade five science, grade eight science, and high school Biology—were developed for the CBT Tryout based on the Framework for K–12 Science Education and the California content standards for science. Each was administered from October 1–18, 2012, to a sample of 193 schools that were selected to include the range of demographic characteristics and technological capabilities found in California schools.

This report is organized into three main sections. The first section, *Test Design and Data Collection Methods*, describes the test design and development process as well as the test administration activities and procedures. The second section, *Results on Participation, Test Administration, and Artificial Intelligence Scoring*, summarizes the results of the pre- and post-test surveys of students and administrators as well as the associated site visits. This section includes information about the student, school, and district readiness for the CBT, as well as information collected about the school testing environment, security and processing issues, technological issues, the adequacy of training and proctoring, and the reactions and activities of test takers during the administration. Also presented are the results from the artificial intelligence scoring process.

The final section, *Psychometric Studies*, describes the results of psychometric studies evaluating the statistical properties of the items and test forms; dimensionality of the CBT forms; possible differential impacts of the CBT on student subgroups of interest at both the item and test levels; and the major factors comprising technology readiness, which may have impacted student CBT performance.

When the STAR CBT Tryout was announced, 609 LEAs expressed an interest in participating in the tryout, representing 40 percent of all LEAs in the state. This suggested a high level of statewide interest in CBT. Ultimately, 133 of the invited LEAs chose to participate, resulting in a testing sample of 193 schools. The LEAs and schools that participated covered the spectrum of preparedness for CBT ranging from those that were uncertain of their preparedness to those that indicated they were very well prepared. Though every effort was made to obtain a representative sample and to meet sample targets, students who actually took the tests represented only a small proportion

of the student population in the state and generally represented only schools that had the technology infrastructure and time to participate. Therefore, caution is advised in drawing broad conclusions about CBT in the state as a whole.

Overall, the results indicate that many of the LEAs (approximately 85 percent) who participated in the tryout and responded to the survey questions believe they are ready to begin phasing in CBT for future assessments, assuming that system requirements similar to those for the CBT Tryout would apply. Additionally, the CBT Tryout demonstrated that TE items, including those with animation, can be successfully administered on the typical computer and network systems that currently exist in California classrooms.

At the same time, a significant number of LEAs in California still have either perceived or real technological barriers to CBT. Of the 358 LEAs that declined to participate, nearly half cited “we don’t think the right technology is in place” as a reason for declining. Additionally, because the CBT Tryout tested only a subset of students at each participating school, no conclusions can be drawn about how prepared these schools would be to test every student on a computer, nor about the length of the testing window required to complete such testing.

Analyses of test data show that the CBT Tryout test forms provided a reliable measure of student performance and that the administered test forms, comprised of MC items with a modest number (33 percent) of TE items, resulted in a unidimensional assessment (i.e., measures a dominant construct of interest). In addition, results investigating any potential differential impact on student subgroups suggest that the CBT may lead to small differential impact at the item and test level for some subgroups. However, these findings should be interpreted with caution due to the limitations of the study, including considerations of motivation (no-stakes), timing (i.e., students were administered the CBT Tryout forms several months after they completed the course in the subject), and the design of the study, which did not include the counter-balanced administration of paper versions of the items and forms.

Finally, analyses of the student CBT readiness survey data suggest that students with more exposure to computers either in an academic or nonacademic environment and students with higher efficacy and a positive attitude toward using computers tended to perform somewhat better than expected on the assessments that comprised the CBT Tryout than students with less of these characteristics. Analyses of the school-level survey indicate that students in schools where teachers have higher levels of experience with technology also performed better on this CBT compared to their counterparts.

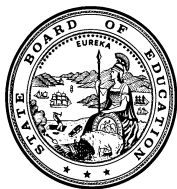




# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 05**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### SUBJECT

California English Language Development Test: Transitioning to the English Language Proficiency Assessments for California.

- ☐ Action
- ☒ Information
- ☐ Public Hearing

#### SUMMARY OF THE ISSUE(S)

In April 2013, the State Board of Education (SBE) received an Information Memorandum describing the English Language Proficiency Assessments for California (ELPAC) system that the California Department of Education (CDE) proposes to replace the California English Language Development Test (CELDT). In November 2012, the SBE approved the new English Language Development (ELD) standards for kindergarten through grade twelve. Per California *Education Code (EC)* Section 60810(c)(7); Title III of the Elementary and Secondary Education Act (ESEA), Section 3113(b)(2); and Title III of ESEA, Section 3212(a)(2)(B)(iv), the state test of English language proficiency (ELP) must be aligned to the state-adopted ELD standards. Because the CELDT was developed based on the 1999 ELD standards, the California Department of Education (CDE) in accordance with *EC* Section 60811.3 must incorporate the 2012 ELD standards into the state ELP assessment system.

#### RECOMMENDATION

This is an information item only. The CDE recommends no specific action at this time.

#### BRIEF HISTORY OF KEY ISSUES

Given the requirements to align the state ELP test to the 2012 ELD standards and to move the annual assessment to the spring, the CDE proposed the ELPAC system that would consist of an initial (diagnostic) screener and a summative assessment, and be technology-based, but still offer paper-pencil testing.

There will be additional costs in the next three fiscal years to align the state ELP test to the 2012 ELD standards. The CDE is working internally and with the Department of Finance to identify funds to implement the ELPAC. The activities necessary to produce valid and reliable assessments that are age- and developmentally appropriate pursuant to state and federal law include, but are not limited to: developing kindergarten through grade twelve (K–12) test blueprints, developing test performance descriptors,

conducting standard settings to produce performance-level cut scores, and designing and conducting comparability and linkage studies. Some of these activities will culminate in SBE action, such as approval of recommended performance-level cut scores.

The timeline presented in the April 2013 Information Memorandum represents an ambitious schedule for transitioning from the CELDT to the ELPAC. Nevertheless, the CDE proposes completing this transition by the 2015–16 school year, a full year ahead of the ELPA21 state consortium implementation schedule. A narrative timeline of key ELPAC activities is attached (Attachment 1). The CDE is analyzing current legislation and regulations to determine the need for any changes.

The first step to begin aligning the state ELP test to the 2012 ELD standards is to complete an analysis of the alignment of all test questions (also called items) in the current item database. This analysis will determine how many items align to the 2012 ELD standards, and identify any gaps in coverage of the 2012 ELD standards that must be filled to ensure technical adequacy and alignment for the purpose of future item and test development.

The CDE has directed the CELDT contractor using current funds to conduct this alignment and gap analysis, and provide a report detailing the alignment process, including methodology, findings, and recommendations by August 30, 2013. In June 2013, the current contractor will convene up to 100 K–12 educators, who are familiar with the 2012 ELD standards and/or work closely with ELs, to participate in the alignment activity. The results of this alignment analysis will inform requests for funding in the upcoming budget years. Further, the current contractor will indicate in the item database each test question aligned to a 2012 ELD Standard by using the standards labeling that has been adopted by the CDE for the 2012 ELD standards, the English-language arts/ELD framework, and related instructional materials.

The CDE has begun informing school districts and other stakeholders of the need to align the state ELP assessment to the 2012 ELD standards and to move the annual assessment to the spring. In February 2013, the CDE provided a general overview and presented key considerations for the proposed ELPAC system (see Attachment 2) during a session at the statewide California Association for Bilingual Education conference in Long Beach. In March 2013, the CDE also presented similar information at the quarterly Bilingual Coordinators Network and the Regional Assessment Network meetings held in Sacramento, and gathered questions and comments about the proposed plan from the members.

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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**April 2013:** The CDE provided an information memorandum to the SBE to introduce the proposal of replacing the CELDT with the ELPAC system aligned to the 2012 ELD standards.

**November 2012:** The SBE adopted new ELD standards aligned to the California Common Core State Standards in English–language Arts. In accordance with *EC* sections 60810(c) (7) and 60811.3 (Assembly Bill 124), the CDE must incorporate the 2012 ELD standards into the state ELD assessment.

**July 2010:** The SBE approved a new definition of English language proficiency for kindergarten through grade one (K–1) on the CELDT. K–1 student results are based on weighted domain scores (45 percent each for listening and speaking, 5 percent each for reading and writing).

**May 2010:** The SBE adopted a modified target structure for Annual Measurable Achievement Objectives (AMAO) 2 to ameliorate the Notice of Final Interpretations (NOFI) of Title III of the ESEA requirement of including all initial ELs and the addition of K–1 reading and writing on the CELDT. Separate targets were established for two distinct cohorts: 1) ELs in English language instruction educational programs for less than five years and 2) ELs in English language instruction educational programs for five or more years.

**July 2009:** In accordance with *EC* Section 60180(b), the SBE was informed about the March 2009 special field test and the start of the operational administration of the K–1 reading and writing tests. For the first time, the CELDT assessed in all four domains of listening, speaking, reading, and writing for K–12 as required by the ESEA.

**September 2007:** The SBE approved adjustments to the targets for Title III AMAOs 1 and 2.

**March 2006:** The SBE approved new cut scores based on a 2006 standard setting. A new common scale became operational in 2006–07.

**July 2003:** The SBE established targets on CELDT for reporting AMAOs 1 and 2.

#### **FISCAL ANALYSIS (AS APPROPRIATE)**

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To comply with *EC* Section 60810(c)(7), ESEA Title III, Section 3113(b)(2), and ESEA Title III, Section 3212(a)(2)(B)(iv), the CDE must develop valid, reliable, and fair assessments aligned to the state-adopted ELD standards. The CDE submitted a Budget Change Proposal for fiscal year 2013–14 and then an April letter to begin the development of the ELPAC system and fund two separate Requests for Proposals for an initial screener and an annual summative test.

#### **ATTACHMENT(S)**

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- Attachment 1. Proposed Timeline of Replacing the California English Language Development Test (CELDT) with the English Language Proficiency Assessments for California (ELPAC) (1 page)
- Attachment 2. Key Considerations in Developing the English Language Proficiency Assessments for California (ELPAC) (1 page)

## **Proposed Timeline of Replacing the California English Language Development Test (CELDT) with the English Language Proficiency Assessments for California (ELPAC)**

The California Department of Education (CDE) proposes to replace the CELDT with the ELPAC system by 2015–16, provided legislative authority and additional funding are secured. The following is the proposed timeline of key transition activities:

<b>Date</b>	<b>Key Activities</b>
Spring 2013	The current CELDT contractor will analyze the item database of current CELDT questions for alignment to the 2012 ELD standards.
Summer 2013	The current CELDT contractor will develop new test blueprints for kindergarten through grade twelve (K–12) based on the 2012 ELD standards.
Fall 2013	The CDE will select a contractor to develop or customize a computer-based ELPAC initial (diagnostic) screener.
Winter 2013	The CDE will award a contract to develop the ELPAC summative assessment (paper-pencil delivery mode).
Fall 2014	The ELPAC screener contractor will field-test the ELPAC initial screener.
Spring 2015	The ELPAC summative contractor will field-test the ELPAC annual summative assessment.
2015–16	The ELPAC screener contractor will administer the operational ELPAC initial screener.
Spring 2016	The ELPAC summative contractor will administer the operational ELPAC summative test.
2015–16	The CDE will begin to transition from a paper-pencil summative assessment to a technology-based platform with a paper-pencil option.

## **Key Considerations in Developing the English Language Proficiency Assessments for California (ELPAC)**

The ELPAC initial screener and summative assessment developed or selected for use in California must meet the following minimum criteria:

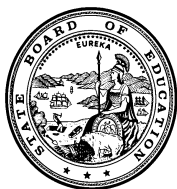
- Align to the 2012 ELD standards that correspond to the California Common Core State Standards for English–language arts, and if approved by the SBE, add mathematics and literacy in science
- Ensure valid, reliable, and fair assessments
- Reduce testing time
- Shorten turnaround time for scoring and reporting to local educational agencies (LEAs)
- Help LEAs to identify students who are English learners (ELs) and to monitor ELs' progress
- Be compatible with the technology platform of the Smarter Balanced Assessment Consortium (SBAC) system
- Ensure compliance with federal and state laws and guidelines
- Be cost-effective
- Be age- and developmentally appropriate
- Maximize test information on language development to support access to the Common Core State Standards



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 06**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### SUBJECT

Background Information on the Academic Performance Index and an Update on the California Department of Education's Implementation Timeline and Process Consistent With *Education Code* Sections 52052 through 52052.9.

- ☐ Action
- ☒ Information
- ☐ Public Hearing

#### SUMMARY OF THE ISSUE(S)

The California Department of Education (CDE) will present background information on the Academic Performance Index (API) and the five key components of the API that can be modified by SBE action. In addition, a brief update on the progress made toward implementing the main components of California *Education Code (EC)* sections 52052 through 52052.9 as amended by Senate Bill (SB) 1458 (Steinberg), will be provided.

#### RECOMMENDATION

This item provides background information on the API and is the third in a series of updates to the State Board of Education (SBE) regarding the API implementation activities. At this time, no specific action is recommended.

#### BRIEF HISTORY OF KEY ISSUES

##### Design Features of the API

In 1999, the Public Schools Accountability Act (PSAA) was enacted. The law created a new academic accountability system for California's schools. In addition, it created the Immediate Intervention/Underperforming Schools Program (II/USP), and the Governor's Performance Awards Program (GPAP).

The law required that each school and numerically significant student group receive an API annually to determine improvement from one year to the next. The API was used to determine eligibility for the II/USP Grant and to determine if schools met the API growth requirements to avoid interventions. The II/USP has sunset and is reflected in Attachment 1 as such. In addition, funding was made available for the GPAP in 1999–00 and 2000–01 to provide awards for schools and staff that met or exceeded their API growth targets. The GPAP program remains in the *EC*, but has not been funded since 2000–01.

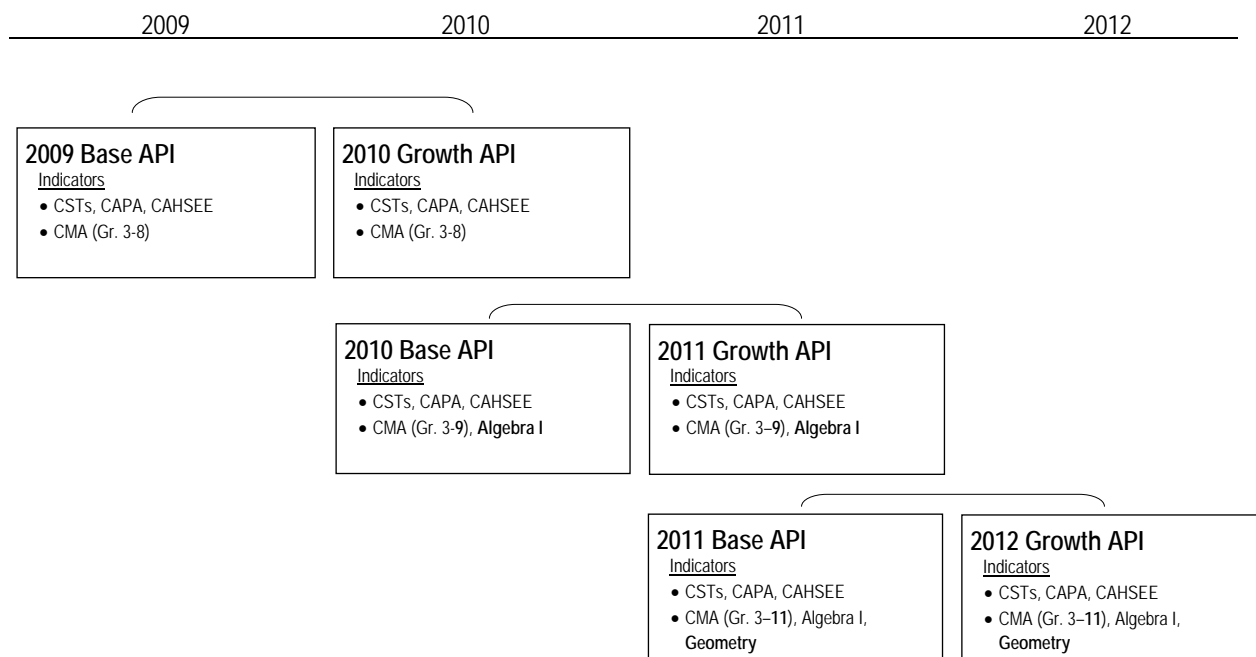


The law requires that the API must include, but not be limited to, the following indicators:

- Data results from Standardized Testing and Reporting (STAR) Program
- Staff and pupil attendance rates (when available and accurate)
- Graduation rates for pupils in secondary schools (when available and accurate)
- Grade eight and nine dropout data (when available and accurate)
- Results of the California High School Exit Examination (CAHSEE)

The 1999 Base API was released in January of 2000 and it contained the results of the Stanford 9, a (norm referenced) standardized test. The California Standards Tests (CSTs) for English language arts (ELA) and mathematics were developed and incorporated into the API starting with the 2001–02 API cycle. The Elementary and Secondary Education Act (ESEA) required science exams for grades eight and ten were incorporated into the 2006–07 API cycle. The API was designed to reflect changes in performance from year to year. To ensure appropriate determination of improvement from one year to the next, two reports were developed to support a one-year improvement cycle: (1) the Base API report, and (2) the Growth API report. Each reporting cycle begins with the Base API and any changes to the API calculation, such as adding a new indicator, begin with the Base API, which is used to compare the next year's improvement. The Growth API must contain the same indicators and weights as the Base API in order to compare the two and determine improvement. The graphic below illustrates why two API reports are required. The Base API is adjusted, and the Growth API is calculated using the same indicators and weights as the Base API.

## Two API Reports to Maintain Comparability and Allow Changes



Because new indicators are added to the API and test weights may change from one cycle to the next, it is inappropriate to compare APIs across reporting cycles. For example, it would be inappropriate to compare the 2010 Growth API to 2012 Growth API. The comparison is not valid because different indicators were used in each cycle.

However, comparing the Base and Growth APIs within a reporting cycle (i.e., 2011 Base to 2012 Growth) is appropriate because the same indicators and weights are used in both. It is also appropriate to compare the amount of API improvement over time, (i.e., improvement of 5 points in 2010, 10 points in 2011, and 13 points in 2012).

Changes have been incorporated into the API each year since 1999, with one exception. The incorporation of the CSTs in ELA, mathematics, history social science, and science and the addition of the CAHSEE were major changes that occurred in the first five years of reporting the API, as provided below:

- The 1999–00 and 2000–01 API cycles only contained the Stanford 9
- The 2001–02 API cycle added the CST for ELA
- The 2002–03 API cycle added the CSTs for mathematics and history social science, the CAHSEE, and replaced the Stanford 9 with the California Achievement Test, 6<sup>th</sup> edition (CAT 6)
- The 2003–04 API cycle added the CST for science and the California Alternate Performance Assessment (CAPA)

Since 1999, the California *EC* has been amended to add approximately forty purposes for API scores, targets, and/or decile ranks (see Attachment 1).

### **Basic Components of the API**

The SBE has several responsibilities related to California's state accountability system. The SBE annually approves changes to the calculation of the API. The SBE is also responsible for determining the indicators, the weight of each indicator, and other aspects of the API calculation methodology.

There are five key components of the API that can be modified by SBE action:

1. Indicators
2. Point Structure
3. Weights
4. Statewide Performance Target
5. Annual Growth Targets

For detailed information regarding the five components see Attachment 2.

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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In January 2012, the SBE approved proposed amendments to *California Code of Regulations*, Title 5 (5 CCR) sections 1039.2 and 1039.3 which defined continuous student enrollment for accountability purposes and required assessment results from an alternative education program to be assigned to the school/local educational agency of residence under specific circumstances. In March 2011, the SBE approved proposed amendments to 5 CCR Section 1039.1 which allows for the integration of grade eight and nine dropout data into the API. The regulation became operative on September 3, 2011.

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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The proposed 2013 State Budget provides the CDE with two positions to support the redesign of the API. Other costs associated with the activities related to the API are included in the existing Analysis, Measurement, and Accountability Reporting Division's budget.

## **ATTACHMENT(S)**

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Attachment 1: *Education Code* Sections that Reference the Academic Performance Index (1 Page).

Attachment 2: State Board of Education Responsibilities Regarding the Academic Performance Index (4 Pages).

Attachment 3: Senate Bill 1458 Implementation Timeline (2 Pages).

### **Education Code Sections that Reference the Academic Performance Index**

Since 1999, the California *Education Code* has been amended to add approximately forty uses of the Academic Performance Index (API) to: (a) determine funding eligibility/priority, (b) trigger requirements or reporting, (c) determine priority for professional development, and (d) determine eligibility for program participation.

The chart below indicates which aspect of the API is required in four categories. It is important to remember that some legislation required the consideration of two or more API components for a program (e.g., decile ranks and targets).

#### **Legislative API Uses Current and Sunset – Unduplicated Count**

<b>Current Uses</b>	<b>Decile or Similar Schools Ranks</b>	<b>API Targets Met</b>	<b>API Scores</b>
Funding and Grants	6	--	2
Requirements and Reporting	7	6	5
Professional Development	3	--	--
Program Participation	4	--	--
<b>Total</b>	<b>20</b>	<b>6</b>	<b>7</b>

<b>Sunset Uses</b>	<b>Decile or Similar Schools Ranks</b>	<b>API Targets Met</b>	<b>API Scores</b>
Funding and Grants	4	1	1
Requirements and Reporting	1	--	--
Professional Development	1	--	--
Program Participation	--	--	1
<b>Total</b>	<b>6</b>	<b>1</b>	<b>2</b>

#### **Examples of API Uses**

##### **Funding and Grants**

- State Preschool Program
- School Assessment of Buildings and Emergency Repair

##### **Requirements and Reporting**

- Open Enrollment
- Quality Education Investment Act (QEIA)
- Charter School Renewal
- Williams Act

##### **Professional Development**

- National Board Certification Program
- Certificated Staff Mentoring Program

##### **Program Participation**

- Assumption Program of Loans for Education (APLE)
- Extra Credit Teacher Home Purchase Program

## **State Board of Education Responsibilities Regarding the Academic Performance Index**

The State Board of Education has responsibility to determine five key components of the Academic Performance Index (API).

### **1. Indicators**

The indicators are individual elements included in the API (e.g., test results, graduation data, college and career, etc.). State law requires that the API be comprised of at least 60 percent test results for primary and middle schools. Beginning with the 2015–16 API reporting cycle (i.e., the 2015 Base API and the 2016 Growth API), the Standardized Testing and Reporting (STAR) Program, California High School Exit Examination (CAHSEE), and the Smarter Balanced Assessment Consortium (SBAC) results may constitute no more than 60 percent of a high school's API with the remaining 40 percent from indicators other than state assessments, such as graduation data and a college and career indicator. Currently, state assessment results constitute 100 percent of the API for all schools.

The law also specifies the API must also include attendance rates for elementary, middle, and high schools and graduation rates for high schools (California *Education Code* [EC] Section 52052(a)(4)), and school and school district dropout rates for students who drop out of school while enrolled in grade eight or nine (EC Section 52052.1(a)(3)). The Superintendent is responsible for determining the reliability, validity, and stability of those data prior to their inclusion in the API (EC Section 52052(a)(4)(F)(ii)).

### **2. Point Structure**

The point structure refers to the point value each test result or non-assessment indicator contributes to the API score. For assessments, each performance level is given a point value. For example, a student who scores proficient on a California Standards Test (CST) contributes 875 points toward the school's API score. The current point structure is depicted in Table 1.

The assignment of performance level points for assessment-based indicators encourages schools to focus on the instructional needs of low-performing students. For example, a student who moves from a score of far below basic on the CSTs, California Modified Assessments (CMAs), or California Alternate Performance Assessment (CAPA) to below basic contributes more points to a school's API score (i.e., 300) than a student who moves from a score of proficient to advanced (i.e., 125), irrespective of grade span. These performance level points were set by the SBE in 1999 and have not changed.

**Table 1**

**Performance Level Point Structure for Including Test Results in the API**

<b>CST/CAPA/CMA Performance Level</b>	<b>CAHSEE Score</b>	<b>Weight</b>	<b>Point Difference</b>
Advanced	Pass	1,000	125
Proficient	N/A	875	175
Basic	N/A	700	200
Below Basic	N/A	500	300
Far Below Basic	No Pass	200	---

Because the calculation of the API is based on individual student level data, as new indicators (graduation data, college and career, etc.) are added to the API the SBE will have to adopt a point structure for each non-assessment based indicator. For example, to incorporate graduation data into the API for high schools, the SBE will need to determine how many points a four-year graduate would contribute to a high school's API.

### **3. Weights**

Currently, weights indicate the relative contribution of a particular assessment result to a school's API score. Assessment weights are applied according to the test, the content area, and the grade span: grades two through eight and grades nine through twelve. The API weights are the same for all schools and student groups and are the same for the Base and Growth APIs within a reporting cycle. The SBE is responsible for assigning weights. Weights are not percentages and do not total 100 percent. The SBE last adopted weights when the results from the CSTs in grade eight science and grade ten Life Science were added to the 2006–07 API. As new non-assessment indicators are added to the API, the SBE will need to adopt a weight for each indicator to determine its contribution to the API.

Table 2 shows the weights for the assessment results for grades two through eight. Included in the API score are results from the CSTs, the CMA, and the CAPA.

**Table 2**  
**Weights, Grade Levels 2–8**

<b>Content Area</b>	<b>2011–12 API Weights</b>
CST/CMA/CAPA in English-language arts (ELA), Grades 2–8	0.48
CST/CMA/CAPA in Mathematics, Grades 2–8	0.32
CST/CMA/CAPA in Science, Grades 5 and 8	0.20
CST in History-Social Science, Grade 8	0.20
Assignment of 200, CST in Mathematics, Grade 8	0.10

Table 3 shows the weights for the assessment results for grades nine through twelve. For the CAHSEE, grade eleven and twelve results are only counted if the student passed. Students in grades nine through eleven who do not take a mathematics or science test are assigned a performance level of far below basic (200 points) for accountability purposes.

**Table 3**  
**Weights, Grade Levels 9–12**

<b>Content Area</b>	<b>2011–12 API Weights</b>
CST/CAPA in ELA, Grades 9–11	0.30
CST/CAPA in Mathematics, Grades 9–11	0.20
CST in Science, Grades 9–11	0.22
CST/CAPA in Life Science, Grade 10	0.10
CST in History-Social Science, Grades 9–11	0.23
CAHSEE ELA, Grades 10–12	0.30
CAHSEE Mathematics, Grades 10–12	0.30
Assignment of 200, CST in Mathematics, Grades 9–11	0.10
Assignment of 200, CST in Science, Grades 9–11	0.05

#### **4. Statewide Performance Target**

California *EC* Section 52052(d) requires that the Superintendent recommend and the SBE adopt a statewide performance target that all schools should strive to achieve. In 1999, the SBE adopted an API score of 800 as the statewide performance target. This API score was set because it was rigorous, yet attainable.

Because individual school and student group targets are established by examining the distance between that school or student group API score and the state target, changes to the state target must be implemented with the Base API. Any change to the state target will also impact growth targets for schools and

student groups. The number of schools meeting the established target of 800 has increased substantially since 2000. Below is the number of schools, by school type, that were at or above 800 based on the 2000 Growth API compared with the percent of schools that are at or above 800 based on the 2012 Growth API:

School Type	2000 Growth API Percent at or Above 800	2012 Growth API Percent at or Above 800
Elementary	19.3%	57.5%
Middle	13.4%	46.2%
High	5.2%	46.2%

## 5. Annual Growth Targets

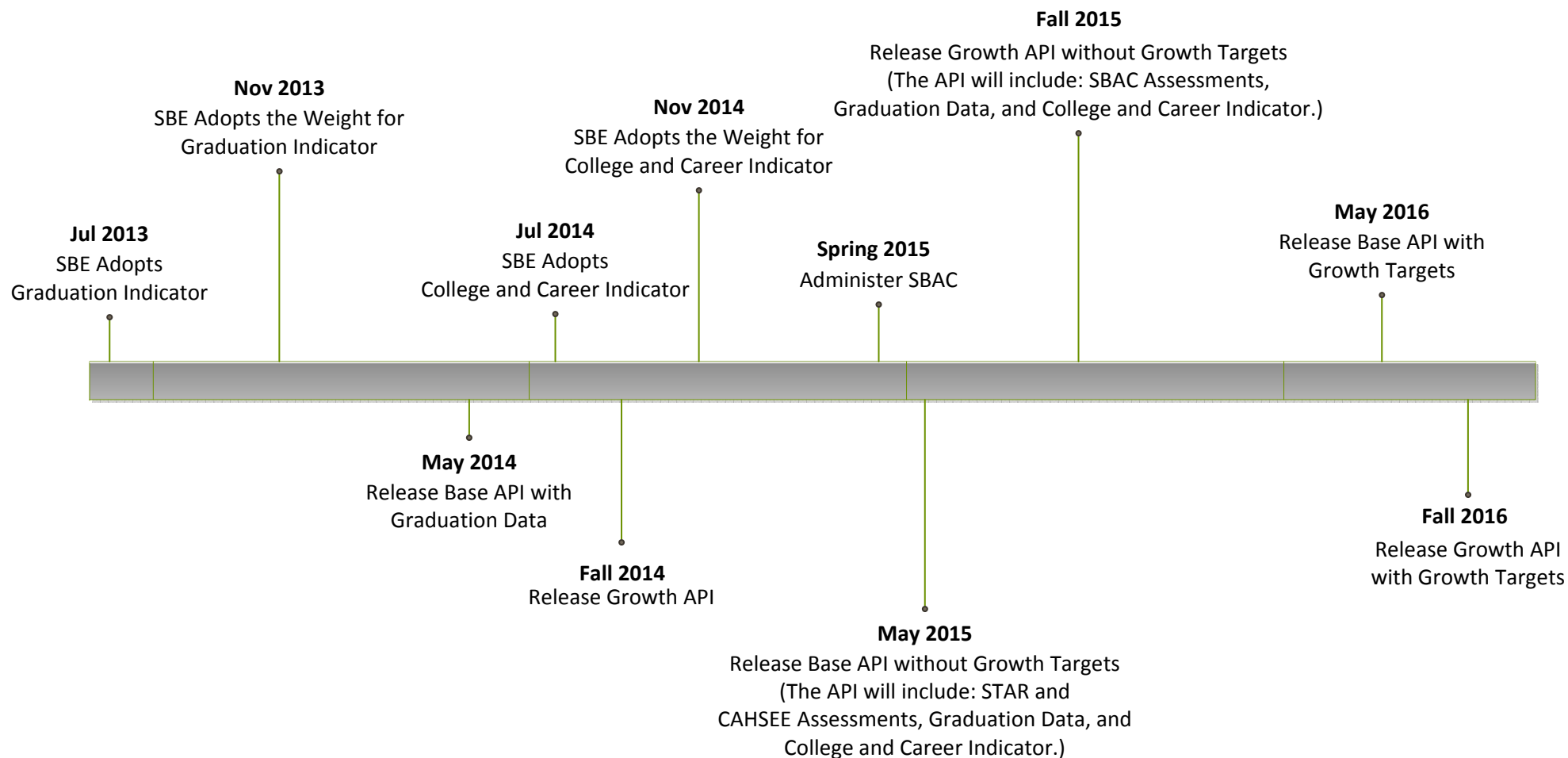
Growth targets indicate how much improvement is expected for a school overall and for all numerically significant student groups within a school. To meet all state API growth target requirements, a school and each numerically significant student group in the school must meet its growth target each year.

*EC* Section 52052(c) requires that the SBE must adopt expected annual percentage growth targets for all schools based on their API baseline score from the previous year. Specifically, the minimum annual percentage growth targets must be five percent of the difference between the actual API score of a school and the statewide API performance target.



## Senate Bill 1458 Implementation Timeline

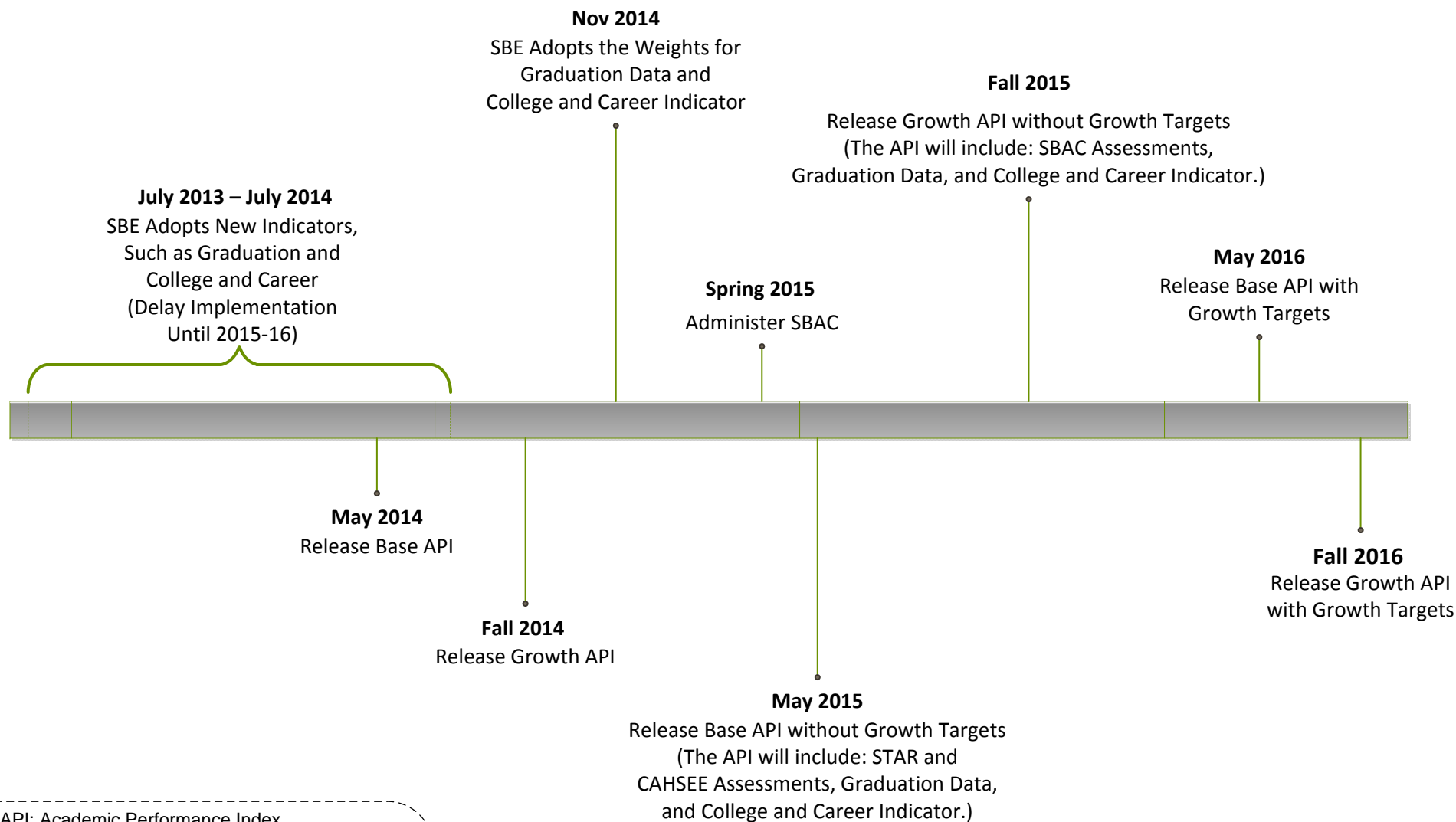
### OPTION A



API: Academic Performance Index  
CAHSEE: California High School Exit Examination  
SBAC: Smarter Balanced Assessment Consortium  
SBE: State Board of Education  
STAR: Standardized Testing and Reporting

## Senate Bill 1458 Implementation Timeline

### OPTION B



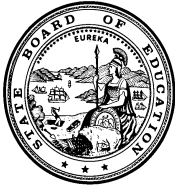
API: Academic Performance Index  
CAHSEE: California High School Exit Examination  
SBAC: Smarter Balanced Assessment Consortium  
SBE: State Board of Education  
STAR: Standardized Testing and Reporting



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 07**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

SUBJECT	
Elementary and Secondary Education Act: Proposed Amendments to the Accountability Workbook for 2013.	<input checked="" type="checkbox"/> Action <input checked="" type="checkbox"/> Information <input type="checkbox"/> Public Hearing

#### SUMMARY OF THE ISSUE(S)

Since 2004, the State Board of Education (SBE) has annually approved proposed amendments to California's Consolidated State Application Accountability Workbook (hereafter referred to as the Accountability Workbook) and submitted them to the U.S. Department of Education (ED). A copy of the 2011 Accountability Workbook is on the California Department of Education (CDE) Accountability Workbook Web page at <http://www.cde.ca.gov/ta/ac/ay/documents/workbook030711.doc>.

#### RECOMMENDATION

The CDE recommends that the SBE approve the amendment to California's Accountability Workbook. This amendment would impact the 2013 Adequate Yearly Progress (AYP) determinations.

#### BRIEF HISTORY OF KEY ISSUES

In January 2012, the SBE approved a Workbook amendment to include an extended-year cohort graduation rate (i.e., five-year cohort rate) as an alternative method to meet the AYP graduation rate criteria for local educational agencies (LEAs), schools, and student groups beginning with the 2013 AYP determination. The amendment was submitted to the U.S. Department of Education (ED) in February 2012. In late January 2013, the ED notified the Analysis, Measurement, and Accountability Reporting Division (AMARD) that the proposed five-year cohort rate was not approved (See Attachment 1).

The CDE proposed to compare the four-year and five-year graduation rates using the same cohort. In addition, the CDE proposed that the growth targets for the five-year rate be calculated using the same method as the four-year rate. The proposed calculation method was as follows:

The number of students that graduated in four years divided by the number of first time grade nine students in **2007–08**.

vs.

The number of students that graduated in five years divided by the number of first time grade nine students in **2007–08**.

However, the ED is requiring that the comparison for growth be calculated by comparing two different cohorts. In addition, the ED is requiring that the five-year target be greater than the four-year target. The ED method for calculating the growth is:

The number of students that graduated in four years divided by the number of first time grade nine students in **2007–08**.

vs.

The number of students that graduated in five years divided by the number of first time grade nine students in **2006–07**.

The CDE is requesting that the SBE approve the calculation method required by the ED and set the five-year graduation rate target at 1.0 percentage point higher than the four-year graduation rate. In addition, the CDE requests that in order for the five-year graduation rate to be used as alternative method to the four-year graduation rate, the five-year cohort must have at least one additional graduate.

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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The SBE has submitted amendments to California's Accountability Workbook each year since the initial submission in January 2003. Most amendments have been in response to changes in California's assessment system or to changes in federal requirements. The most recent changes to the Accountability Workbook include:

- For the 2012 AYP, the SBE and CDE submitted two amendments in addition to the five-year cohort graduation rate. The first amendment was in response to a previous Title I Monitoring Visit finding by the ED. As a result, the CDE agreed to produce all LEA accountability report cards and post them on the CDE Web site. The second amendment was technical and it revised the definition of the socioeconomically disadvantaged (SED) student group in the Workbook to align with the definition on the student answer document.
- For the 2011 AYP determination, the SBE and CDE submitted a technical amendment regarding how students would be classified as English learners for accountability purposes.

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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Fiscal impact will be minimal, as the AYP reports are generated by CDE staff and posted on the CDE AYP Web page. All expenses are included in AMARD's budget.

### **ATTACHMENT(S)**

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Attachment 1: Letter from the U.S. Department of Education (2 Pages)

THE SECRETARY OF EDUCATION  
WASHINGTON, DC 20202

April 11, 2013

Honorable Michael Krist  
President  
California State Board of Education  
1430 N Street  
Sacramento, CA 95814-5901

Honorable Tom Torlakson  
State Superintendent of Public Instruction  
1430 N Street  
Sacramento, CA 95814-5901

Dear President Krist and Superintendent Torlakson:

I am writing in response to California's request to amend its State accountability plan under Title I of the Elementary and Secondary Education Act of 1965, as amended (ESEA). I am pleased to approve California's amended plan as reflected in the enclosed summary of California's requested amendments. Please note that California's request to implement an extended-year adjusted cohort graduation rate will remain under consideration pending submission of additional information (Element clarification enclosed). The U.S. Department of Education (the Department) will address the remaining amendment following submission of this information, at which time we will post California's amended plan on the Department's website. Any further requests to amend California's accountability plan must be submitted to the Department for review and approval as required by Section 1111 (f)(2) of Title I of the ESEA.

Please be aware that approval of California's accountability plan for Title I, including the amendments approved herein, does not indicate that the plan complies with all Federal civil rights requirements, including Title VI of the *Civil Rights Act of 1964*, Title IX of the *Education Amendments of 1972*, Section 504 of the *Rehabilitation Act of 1973*, Title II of the *Americans with Disabilities Act*, and the requirements under the *Individuals with Disabilities Education Act (IDEA)*.

I am confident that California will continue to advance its efforts to hold schools and school districts accountable for the achievement of all students. If you need any additional assistance to implement the standards, assessments, and accountability provisions of the ESEA, please do not hesitate to contact my staff member Grace Ross via e-mail at: [grace.ross@ed.gov](mailto:grace.ross@ed.gov). Thank you for your ongoing efforts to enhance education for all of California's students.

Sincerely,  
/s/  
Deborah S. Delisle  
Assistant Secretary

Enclosure

cc: Deborah V.H. Sigman - Deputy Superintendent

## **Amendments to California's Accountability Plan**

The following is a summary of California's amendment requests. Please refer to the U.S. Department of Education's (the Department) website ([www.ed.gov/admins/lead/account/stateplans03/index.html](http://www.ed.gov/admins/lead/account/stateplans03/index.html)) for California's complete accountability plan.

### **Acceptable amendments**

The following amendments are aligned with the statute and regulations:

#### **Report cards (Element 1.5)**

Revision: California updated its accountability workbook to indicate that the California Department of Education (CDE) now produces a stand-alone local educational agency (LEA) report card, which contains all federally required data elements. A report card for each LEA is posted on the CDE's website.

#### **California's Definition of "full academic year" (Element 2.2)**

Revision: California clarified its definition of "full academic year" to align with the definition of "continuously enrolled" for a full academic year with the definition established in California's regulations. This definition provides that a student is "continuously enrolled" if the student is enrolled from the first Wednesday in October to the first day of testing without a gap in enrollment of more than 30 consecutive calendar days.

#### **Definition of Socioeconomically Disadvantaged (SED) Subgroup (5.1)**

Revision: California clarified that a student is included in the socioeconomically disadvantaged (SED) subgroup if the student is eligible to receive free and reduced-price meals.

### **Amendment under consideration**

Additional information is required to determine whether the following amendment is acceptable:

#### **Definition for the Public High School Graduation Rate (Element 7.1)**

Revision: California seeks approval to implement a five-year adjusted cohort graduation rate. To facilitate consideration of this request, California must provide additional information regarding the targets for the five-year graduation rate.

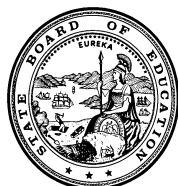




# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 08**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### SUBJECT

2014 Mathematics Primary Adoption of Instructional Materials: Appointment of Instructional Materials Reviewers, Content Review Experts, and Non-Instructional Quality Commissioner Facilitators; Approval of Revision to the Schedule of Significant Events; Approval of Reviewer Training Materials; and Approval of Publisher Fee Reduction Request.

- ☒ Action
- ☒ Information
- ☐ Public Hearing

#### SUMMARY OF THE ISSUES

The *California Code of Regulations* Title 5 (5 CCR), Section 9512(a) requires that the State Board of Education (SBE) appoint Instructional Materials Reviewers (IMRs) and Content Review Experts (CREs) (Attachments 1 and 2) to serve as advisors to the Instructional Quality Commission (IQC) and SBE in the review of instructional materials submitted for adoption.

5 CCR, Section 9510(k) requires that the SBE approve the participation of any instructional materials review panel facilitator who is not a current IQC member.

5 CCR, Section 9510(s) requires that the State Board of Education (SBE) approve the Schedule of Significant Events for an adoption (Attachment 3).

5 CCR, Section 9512(h) requires that the SBE approve IMR and CRE training materials (Attachment 4).

California *Education Code* (EC) Section 60209(e)(1) states that, upon the request of a small publisher or small manufacturer, the SBE may reduce the fee for participation in the adoption.

EC Section 60209(e)(2) states that a "small publisher" and "small manufacturer" mean an independently owned or operated publisher or manufacturer that is not dominant in its field of operation and that, together with its affiliates, has 100 or fewer employees, and has average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years.

5 CCR, Section 9517.3, approved by the SBE at the January 2013 meeting, establishes the publisher fees for this adoption to be \$5,000 per grade level for each program submitted for review, the criteria for determining if a publisher is eligible for a reduced fee, and the process for requesting the reduction.

The California Department of Education (CDE) received the attached request (Attachment 5) by the submission due date of February 13, 2013

## **RECOMMENDATIONS**

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The CDE recommends that the SBE approve appointment of IMRs and CREs as recommended by the IQC.

The CDE recommends that the SBE approve appointment of non-IQC member instructional materials review panel facilitators as recommended by the IQC.

The CDE recommends that the SBE approve the reviewer training materials as recommended by the IQC.

The CDE recommends that the SBE approve the revision to the Schedule of Significant Events.

The CDE recommends that the SBE approve the fee reductions for the publisher listed in the 2014 Mathematics Primary Adoption Publisher Fee Reduction Request.

## **BRIEF HISTORY OF KEY ISSUES**

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### **Background**

In January 2013 a recruitment letter from State Superintendent of Public Instruction Tom Torlakson was sent to district and county superintendents, curriculum coordinators in mathematics, and other interested individuals and organizations, to recruit mathematics educators to serve as IMRs and CREs. Recruitment letters were also sent to college and university departments of mathematics, and to a number of professional associations related to mathematics. The application forms for the IMRs and CREs has been posted on the CDE Web site since January 2013.

The CDE received a total of 69 IMR applications and five CRE applications.

The following individuals have applied to serve as Content Review Experts

1. Joseph Fiedler, Professor, California State University, Bakersfield
2. Ron Buckmire, Associate Professor, Occidental College
3. James Stein, Professor, California State University, Long Beach
4. Duane Kouba, Lecturer, University of California, Davis
5. Deborah Gale, Adjunct Professor, American River College

On March 22, 2013, the IQC approved recommendation of the initial IMR and CRE applicants, those received through March 8, 2013, to the SBE and delegated authority to their Mathematics Subject Matter Committee (SMC) to review and recommend any future applicants on behalf of the full commission. On April 19, 2013, the IQC Mathematics SMC recommended the second cohort of applicants, those received from March 9, 2013, through April 15, 2013, for approval by the SBE. A list of these first cohorts of applicants recommended for approval is attached.

On April 29, 2013, the IQC Mathematics SMC will review applications and recommended the final cohort of applicants, those received from April 16, 2013, through April 25, 2013. This final cohort of applicants will be received as an addendum to this item following the Mathematics SMC action on April 29, 2013.

### **Profile of IMR and CRE Applicants**

The role of the IMR is to review submitted programs to determine their alignment with the content standards and the evaluation criteria adopted by the SBE. The CRE members serve as mathematics content experts and confirm that the instructional materials are mathematically accurate and based on current and confirmed research.

A majority of the IMR applicants are classroom teachers, as required by the 5 CCR, Article 2.1, Section 9516, but also include curriculum specialists, program coordinators, and consultants. All of the CRE applicants have an advanced degree in mathematics.

Of the total applications submitted, 15 of the applicants are male; 41 applicants are female; 18 applicants declined to state gender. Fifteen applicants are from northern California; 49 applicants are from southern California, and 10 are from central California.

### **Estimated Number of Review Panels**

Approximately seven publishers have expressed an interest in participating in the 2014 Mathematics Primary Adoption, though we may have fewer actual submissions following the publisher withdrawal deadline of September 6, 2013. Based on this number of publishers, we anticipate needing approximately 14 panels of reviewers, each panel having five to seven IMR members and one CRE expert.

### **Non-IQC Facilitators**

There are 12 IQC members available to serve as facilitators for the 2014 Mathematics Primary Adoption Reviewer Training and Deliberations. There are an estimated 14 review panels, requiring an additional two facilitators. The IQC recommends the SBE approve the following individuals to serve as facilitators to meet this need:

1. Pat Duckhorn, Former Member, California Curriculum Commission
2. Bama Medley, Former Member, California Curriculum Commission

Training of the reviewers is scheduled for June 17–21, 2013, in Sacramento. Training materials have been developed for the event. Those materials have been reviewed by the IQC and recommended for approval by the SBE.

In the event that an insufficient number of reviewers apply by the application window end date of April 18, 2013, the CDE may allow additional applications to be submitted. Those applicants will be presented to the SBE at its scheduled July 2013 meeting and those applicants will not begin their review of instructional materials until the SBE has taken action on their approval.

The Schedule of Significant Events has been revised to allow the SBE to take action on the adoption in January 2014. This action will allow school districts two additional months to access SBE-adoption instructional resources prior to the implementation of the SMARTER Balanced assessments scheduled for the 2014–15 school year.

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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**March 13, 2013:** The SBE approved the revised Schedule of Significant Events.

**January 16, 2013:** The SBE adopted the evaluation criteria for the 2014 Mathematics Primary Adoption and Schedule of Significant Events.

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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The 2014 Mathematics Primary Adoption is funded through the collection of publisher participation fees. The estimated cost for supplies, duplicating, conference rooms, travel, hotel accommodations, and per diem expenses based on 120 IMRs and 16 CREs is approximately \$400,000. The final costs may vary depending upon the number of reviewers who actually serve on the review panels.

## **ATTACHMENT(S)**

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Attachment 1: 2014 Mathematics Primary Adoption IMR/CRE Applicants (29 Pages)

Attachment 2: 2014 Mathematics Primary Adoption IMR/CRE Applications (150 Pages)  
(This attachment is not available for Web viewing. A printed copy is available for viewing in the State Board of Education office.)

Attachment 3: Schedule of Significant Events 2014 Mathematics Primary Adoption  
(1 Pages)

Attachment 4: 2014 Mathematics Primary Adoption Reviewer Training Binder (600 Pages) (This attachment is not available for Web viewing. A printed copy is available for viewing in the State Board of Education office. Please note that minor changes to training materials may occur to accommodate time constraints at the training.)

Attachment 5: 2014 Mathematics Primary Adoption Publisher Fee Reduction Request  
(1 Page)

List of Instructional Materials Reviewer/Content Review Expert Applicants  
as of April 15, 2013

Recommended for Approval by the Instructional Quality Commission  
March 22, 2013 or April 19, 2013

**Mathematics – Content Review Experts**

(Applicant ID 642)

**Joseph Fiedler, Professor**

California State University, Bakersfield

Area(s) of Expertise: Other area of expertise: Professor of Mathematics

Grade and other Levels of Expertise: 3–5, 6–8, 9–12; University

Highest Degrees/Certifications:

- The Ohio State University  
*Doctor of Philosophy Mathematics*
- (Institution not specified)  
*California Community College Mathematics Instructor Credential #10967*

(Applicant ID 647)

**Ron Buckmire, Associate Professor**

Occidental College

Area(s) of Expertise: Other area of expertise: College Mathematics (Calculus, differential equations, linear algebra, history of mathematics, etc.)

Grade and other Levels of Expertise: College Mathematics

Highest Degrees/Certifications:

- Rensselaer Polytechnic Institute  
*Bachelor of Mathematics*
- Rensselaer Polytechnic Institute  
*Master of Mathematics*
- Rensselaer Polytechnic Institute  
*Doctor of Philosophy, Mathematics*

(Applicant ID 660)

**James Stein, Professor**

California State University, Long Beach

Area(s) of Expertise: Other area of expertise: College Mathematics Professor

Grade and other Levels of Expertise: 6–8, 9–12; University

Highest Degrees/Certifications:

- University of California, Berkeley  
*Doctor of Philosophy*
- University of California, Berkeley  
*Master of Arts*
- Yale University  
*Bachelor of Arts*

(Applicant ID 681)

**Duane Kouba, Lecturer**

University of California, Davis

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: University

Highest Degrees/Certifications:

- Colorado State University  
*Doctor of Philosophy Mathematics, 1982*
- Colorado State University  
*Master of Science Mathematics, 1976*
- University of Northern Iowa  
*Bachelor of Arts, Mathematics*

(Applicant ID 690)

**Deborah Gale, Adjunct Professor**

American River College

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: College

Highest Degrees/Certifications:

- University of California, Davis  
*Doctor of Philosophy Mathematics*
- University of Oregon, Eugene, OR  
*Master of Science, Education/Mathematics*
- San Jose State University  
*Community College Teaching Credential-Math*
- University of Oregon  
*High School Mathematics Teaching Credential*

**Mathematics – Instructional Material Reviewers**

(Applicant ID 632)

**Jenna Tremayne, Teacher (Grades 4–5) Multiple Subjects**

Cucamonga School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5

Highest Degrees/Certifications:

- California Polytechnic State University Pomona  
*Master of Arts in Education and Curriculum*
- California Polytechnic State University Pomona  
*Clear Multiple Subjects Teaching Credential-CA*
- California Polytechnic State University Pomona  
*Bachelor of Arts, Liberal Studies*

(Applicant ID 635)

**Rachel Williams, Student Learning Coach**

Twin Rivers Unified School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: K–2, 3–5

Highest Degrees/Certifications:

- (tested)  
*Administrator Credential*



- Sacramento State University  
*CA Teaching Credential*
- Sacramento State University  
*Bachelor Degree Liberal Studies*

(Applicant ID 636)

**Jennifer Slay, Teacher**

Center Joint Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8

Highest Degrees/Certifications:

- California State University, Chico  
*California Teaching Credential with Math Authorization*
- California State University, Chico  
*Bachelor of Arts*

(Applicant ID 637)

**Rowdy Dyer, Teacher**

Westside Union School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: 3–5, 6–8

Highest Degrees/Certifications:

- California State University, Bakersfield  
*Master of Curriculum and Instruction*
- (Institution not specified)  
*Math Authorization Grades 7-9*
- Western Montana College  
*Bachelor of Elementary Education*

(Applicant ID 638)

**Marianne Oakes, Teacher**

Perris Elementary School District, Railway Elementary School

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5

Highest Degrees/Certifications:

- University of California, Riverside  
*Bachelor of Arts, Liberal Studies*

(Applicant ID 639)

**Anne-Marie Bravo, Teacher**

Perris Elementary School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5

Highest Degrees/Certifications:

- University of California, Riverside  
*Master of Education, Clear Multiple Subjects Credential*
- UCLA Extension, August 2010-March 2013(last class in progress)  
*Supplementary Authorization in Math*
- University of California, Los Angeles  
*Bachelor Degree*
- University of California, Riverside  
*GATE Certification*

(Applicant ID 640)

**Erin Lipsitz, Teacher (Grade 3)**

Romoland School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5

Highest Degrees/Certifications:

- National University  
*Master of Teaching*
- California State University, San Marcos  
*Teaching Credentials*
- University of California, Los Angeles  
*Bachelor of Arts*

(Applicant ID 641)

**Sara Burton, Teacher (Grade 6)**

Perris Elementary School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- University of Redlands  
*Leadership in Educational Leadership, Ed.D.*
- University of Redlands  
*Master of Arts, Curriculum and Instruction*
- University of Redlands  
*Certificate of Eligibility, Administration*
- University of Redlands  
*Bachelor of Arts, Liberal Studies (Multiple Subject Teaching Credential)*

(Applicant ID 644)

**Willie Townsend, Teacher (Grade 8–Algebra)**

Etiwanda School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8

Highest Degrees/Certifications:

- University of Notre Dame  
*Bachelor of Science, Electrical Engineering*
- Chapman University  
*Multiple Subject Teaching Credential*

(Applicant ID 646)

**Tina Shinsato, Teacher**

Vista Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 9–12

Highest Degrees/Certifications:

- California State University, San Marcos  
*Master of Science in Mathematics*
- University of California at San Diego  
*Bachelor of Arts in Mathematics*

(Applicant ID 649)

**Janice Gilmore-See, Library & Technology Resource Teacher**

La Mesa-Spring Valley School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- San Jose State University  
*Master, Library and Information Science*
- San Jose State University  
*Teacher Librarian Credential*
- University of Phoenix  
*Multiple Subject Teaching Credential*
- University of Phoenix  
*Bachelor Degree, Information Systems*

(Applicant ID 652)

**Geri Cook, Teacher**

Vista Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5

Highest Degrees/Certifications:

- Walden University  
*Master of Arts in Education, Mathematics K-5*
- San Diego State University  
*Teaching Credential, Multiple Subjects*
- San Diego State University  
*Bachelor of Arts, Liberal Studies*

(Applicant ID 653)

**Toni Torres, Teacher on Special Assignment - CaMSP Grant Project Manager**  
Pittsburg Unified School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: 3–5, 6–8

Highest Degrees/Certifications:

- UC Berkeley  
*Master of Arts in mathematics education*
- University of California, Berkeley  
*Single Subject Teaching Credential*
- San Francisco State University  
*Bachelor of Arts, Mathematics*
- Diablo Valley College  
*Associates of Arts, Liberal Arts*

(Applicant ID 654)

**Andy Nguyen, Teacher**  
South Jr High School

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8

Highest Degrees/Certifications:

- California State University, Long Beach  
*Master of Arts, Educational Administration*
- California State University, Long Beach  
*Bachelor of Arts, Single Subject Credential in Mathematics*

(Applicant ID 655)

**Monique Pearl, Math Instructor**  
Sonoma State University

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 9–12; K-12, University

Highest Degrees/Certifications:

- Sonoma State University  
*Master of Public Administration*
- SCOE and Humboldt University  
*Professional Clear Teaching Credential*
- Sonoma State University  
*California Math CLAD Teaching Credential*
- Sonoma State University  
*Bachelor of Mathematics*

(Applicant ID 657)

**Suzanne Fore, Teacher**

Coronado Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 9–12

Highest Degrees/Certifications:

- National University  
*National Board Certification*
- University of San Diego  
*Master of Curriculum & Instruction*
- National University  
*Master of Educational Administration*
- University of San Diego  
*Bachelor of Arts, Mathematics*

(Applicant ID 659)

**Leah Alcala, Teacher**

Berkeley Unified

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8, 9–12

Highest Degrees/Certifications:

- University of California, Berkeley  
*Master of Arts, Math Education*
- UCLA  
*Bachelor of Science Pure Theoretical Mathematics*

(Applicant ID 661)

**Steven Krolkowski, Teacher-Dept. Chair-SIOP Coach**

Downey Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8

Highest Degrees/Certifications:

- University of California, Los Angeles. Math Project  
*HOUSSE Certification in Math*

(Applicant ID 665)

**Kirsten Werk, TOSA - Collaboration Teacher / Coach**

Pittsburg Unified School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: 3–5

Highest Degrees/Certifications:

- St. Mary's College  
*Master Degree in Teaching Leadership*
- Brigham Young University  
*Bachelor of Science Degree*
- California State University East Bay  
*Multiple Subject Clear Credential*

(Applicant ID 667)

**Society Loudon, Teacher**

Murrieta Valley Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8

Highest Degrees/Certifications:

- Walden University  
*Master of Science in Curriculum, Instruction and Assessment*
- California State University, San Marcos  
*Bachelor of Science, Mathematics*
- California State University, San Marcos  
*SB2042 Teaching Credential- NCLB compliant for Math and Science*
- LEC  
*Leading Edge Certification in Blended and Online Teaching*

(Applicant ID 668)

**Natalie Albrizzio, Secondary Mathematics Specialist**

Ventura Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8, 9–12

Highest Degrees/Certifications:

- California State University, Northridge  
*Master of Arts, Educational Leadership and Policy Studies*
- California Lutheran University, Thousand Oaks, CA  
*California Clear Single Subject Teaching Credential, Mathematics*
- University of California at Santa Barbara, Santa Barbara, CA  
*Bachelor of Arts, Mathematics*

(Applicant ID 669)

**Kevin Anderson, Instructional Coach (Mathematics)**

Lodi Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8, 9–12

Highest Degrees/Certifications:

- National University  
*California Single Subject Teaching Credential, Mathematics*
- California State University, Chico  
*Bachelor of Science Degree in Mathematics*
- California State University Stanislaus  
*SB472 Certificate (Mathematics- Algebra Readiness)*



(Applicant ID 670)

**Jesse Barber, Teacher**

Romoland School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5

Highest Degrees/Certifications:

- University of Phoenix  
*Master of Education*
- San Diego State University  
*Bachelor of Communication*

(Applicant ID 671)

**Juan Carlos Caraveo, Teacher (High School - Mathematics)**

Salinas Union High School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8, 9–12

Highest Degrees/Certifications:

- Universidad Nacional Autónoma of México  
*Bachelor of Civil Engineering*
- California State University, Monterey Bay  
*Single subject credential preparation*
- examination  
*CLAD*

(Applicant ID 672)

**Lewis Tucker, Instructional Coach**

Los Angeles Unified School District

Area(s) of Expertise: Teacher in private schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8, 9–12

Highest Degrees/Certifications:

- Concordia University  
*Master of Education*
- University of Oklahoma  
*Master of Fine Arts*
- Winston-Salem State University  
*Bachelor of Science in Mathematics*

(Applicant ID 674)

**Jamie O'Hara, Teacher (Grade 5)**

John L. Golden Elementary

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5

Highest Degrees/Certifications:

- Brandman University  
*Master of Arts, Educational Leadership and Administrations, Anticipated 2013*
- National University  
*Master of Education, 2008 Minor Cross Cultural Teaching*
- National University  
*Bachelor of Arts, English (Minor: Concentration in Letters)*

(Applicant ID 676)

**Natalie Maxwell, Teacher**

Sierra Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8, 9–12

Highest Degrees/Certifications:

- California State University, Fresno  
*Single Subject Teaching Credential-Math*
- California State University, Fresno  
*Bachelor of Arts, Mathematics - Pre-College Teaching Option*
- California Commission on Teacher Credentialing  
*Cross-cultural, Language and Academic Development Certificate*

(Applicant ID 677)

**Gregg Motarjeme, Vice Principal**

Pleasant Ridge School District

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: K–2, 3–5, 6–8, 9–12

Highest Degrees/Certifications:

- National University  
*Master of Education*
- University of California, Davis  
*Computer Science and Engineering*
- University of California, Davis  
*Economics*
- NCLB (units)  
*Credential in Math*

(Applicant ID 680)

**Elisa Rose, Secondary Mathematics Coordinator**

Los Angeles Unified School District

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: 6–8, 9–12

Highest Degrees/Certifications:

- National University  
*Administration Tier I*
- CSET  
*Mathematics*
- Northern IL University  
*Master of Science Education Teaching & Learning/Special Education (M/M)*
- Hamline University  
*Bachelor of Arts, Psychology Elementary Education*

(Applicant ID 682)

**Donna Rickman, Teacher**

Alta Loma Jr. High School

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8; M.Ed Educational Technology

Highest Degrees/Certifications:

- Azusa Pacific University, Azusa California  
*Math Teaching Credential*
- Ashland University, Ashland, Ohio  
*Master Degree Educational Technology*
- Central State University, Wilberforce, Ohio  
*Bachelor Degree, Business Administration, CIS*

(Applicant ID 683)

**Lynne Haman, Teacher / Staff Developer**

Poway Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- National Board for Professional Teaching Standards  
*National Board Certificated Teacher*
- San Diego State University  
*Master of Arts Elementary Curriculum*
- CDE  
*Multiple Subject Credential Lifetime*
- California Lutheran College  
*Bachelor of Arts, Liberal Arts*

(Applicant ID 684)

**Manuel Tapia, Teacher (High School)**

Sweetwater Union High School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 9–12

Highest Degrees/Certifications:

- San Diego State University  
*Math Bachelor of Arts*
- National University  
*Single Subject Teaching Credential - Math*

(Applicant ID 685)

**Joanna Jimenez, Instructor**

ACI Institute

Area(s) of Expertise: Teacher in private schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8

Highest Degrees/Certifications:

- California State University, Los Angeles  
*Master of Mathematics Education K-8*
- State of California  
*Clear CA Introductory Mathematics teaching credential*
- California State University, Los Angeles  
*Bachelor of Arts, Urban Learning*
- State of California  
*Clear CA Multiple Subjects teaching credential*

(Applicant ID 686)

**Iliana Grijalva, Teacher**

Palomar High School

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 9–12; College

Highest Degrees/Certifications:

- San Diego State University  
*Mathematics Master*
- San Diego State University  
*BCLAD credential*
- San Diego State University  
*Bachelor of Mathematics*
- Southwestern College  
*Associates in Transfer Studies*

(Applicant ID 687)

**Cinthia Ruiz, Mathematics Teacher on Special Assignment**

Palm Springs Unified School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or

county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: K–2, 3–5, 6–8, 9–12

Highest Degrees/Certifications:

- Chapman University  
*Administration Tier I Certificate*
- Chapman University  
*Single Subject Teaching Credential-Foundational*
- University of California, Santa Barbara  
*Bachelor of Arts Business Economics*
- University of California, Santa Barbara  
*Minor-Mathematics*

(Applicant ID 688)

**Marguerette Baptiste, Teacher (Mathematics)**

Los Angeles Unified School District (John Adams Middle School)

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8

Highest Degrees/Certifications:

- National University  
*Master of Education*
- National University  
*Secondary Teaching Credential*
- University of California Santa Barbara  
*Bachelor of Science in Psychology*

(Applicant ID 689)

**Patricia Wu, Mathematics Program Coordinator**

Green Dot Public Schools

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: 6–8, 9–12

Highest Degrees/Certifications:

- University Of Southern California  
*Doctor of Education*

- Loyola Marymount University  
*Master of Education*
- University of California Berkeley  
*Bachelor of Science*
- University of Southern California  
*Tier 2 Administrative Credential*

(Applicant ID 709)

**Adelita Martinez, Math / EI Coordinator**

Stanislaus County Office of Education

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- Chapman University  
*Administrative Credential*
- Chapman  
*Teaching Credential*
- University of California, Berkeley  
*Bachelor of Arts*

(Applicant ID 724)

**Lorri Stellhorn, Teacher (Grade 6)**

Tracy Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8

Highest Degrees/Certifications:

- Lesley University  
*Master of Education in Curriculum and Instruction*
- California State University, Chico  
*Bachelor of Arts Liberal Studies*

(Applicant ID 725)

**Jannelle Olivier, Teacher / Resource Teacher**

Sweetwater Union HS Dist- Olympian HS

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 9–12

Highest Degrees/Certifications:

- University of California, San Diego  
*Master's in Education*
- University of California, San Diego  
*Single Subject Teaching Credential-Mathematics (CLAD)*
- California State Polytechnic University, San Luis Obispo  
*Bachelor of Science in Mathematics*
- National University  
*Administrative Credential*

(Applicant ID 726)

**Bama Medley, Teacher on Special Assignment**

Santa Maria-Bonita

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- Chapman University  
*Preliminary Administrative Services Credential –Tier I*
- University of La Verne  
*Master of Arts in Education*
- California Polytechnic  
*Bachelor of Arts*

(Applicant ID 728)

**Carol Kee, Teacher (Grade 6-7)**

Mountain View School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8

Highest Degrees/Certifications:



- California State University, San Bernardino  
*Master of Arts in Middle School Education*
- California State University, San Bernardino  
*Bachelor of Arts/Liberal Studies*
- California State University, San Bernardino  
*Supplementary Authorization in Math*
- California State University, San Bernardino  
*Supplementary Authorization in English*

(Applicant ID 730)

**Karen Kennedy, Instructional Coach**

El Monte Union High School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5, 6–8, 9–12; Graduate Level–Masters Degree

Highest Degrees/Certifications:

- University of Southern California  
*Ed.D. in Educational Leadership*
- Azusa Pacific University  
*Master of Arts School Counseling*
- University of California, Irvine  
*Bachelor of Science in Applied Mathematics*
- Golden West College  
*Associates Degree/Liberal Arts*

(Applicant ID 731)

**Paul Juarez, Teacher (Mathematics)**

Civicorps Learning Academy

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 9–12

Highest Degrees/Certifications:

- Mills College  
*Ed.D. Educational Leadership*
- Mills College  
*Master of Education in Educational Leadership*
- San Francisco State University  
*Master of Education in Educational Technology*

- Stanford University  
*Bachelor of Arts in Psychology*

(Applicant ID 732)

**Allison Nazzaro, Teacher (Grade 3)**

Conejo Valley Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- University of California, Santa Barbara  
*CLAD Certificate*
- University of Redlands  
*Multiple Subject Teaching Credential/Supp. English/Art*
- University of California, San Bernardino  
*Liberal Studies Degree / Focus Education*

(Applicant ID 734)

**Zhonghe Wu, Associate Professor**

National University

Area(s) of Expertise: Other area of expertise: High Education for mathematics credential program

Grade and other Levels of Expertise: K–2, 3–5, 6–8, 9–12; University

Highest Degrees/Certifications:

- Texas A&M University  
*Ph.D., C&I - Mathematics Education*
- Wuhan University of Technology  
*Bachelor of Science in Mechanical Engineering*

(Applicant ID 735)

**Stanley Firestone, Teacher**

Vista Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5

Highest Degrees/Certifications:

- San Diego State University  
*Master's in Curriculum and Instruction with a K - 8 mathematics emphasis*
- California State University, San Marcos  
*CLAD*
- San Diego State University  
*California Multiple Subjects Teaching Credential*
- San Diego State University  
*Bachelor's in Social Work (Minor in Business Management)*

(Applicant ID 736)

**Jeffrey Burke, Curriculum Coordinator Secondary Mathematics Programs**  
San Bernardino County Superintendent of Schools

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: 6–8, 9–12; Community College–Pre-Algebra to Calculus II

Highest Degrees/Certifications:

- California State University, San Bernardino  
*Master's in Education Administration - June 2007*
- State University College at Buffalo  
*Master in Mathematics Education (Anticipated in June 2013)*
- State University College at Buffalo  
*Bachelor in Mathematics (minor in education) - May 2000 - Cum Laude*

(Applicant ID 737)

**Barbara Jacobs Ledbetter, Assistant Principal**  
LAUSD Horace Mann Middle School

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: 6–8

Highest Degrees/Certifications:

- University of California, Los Angeles  
*Bachelor of Arts in English*
- Pepperdine University  
*Teaching Credential Program*
- California State University, Northridge  
*Master in Educational Leadership*
- California State University, Northridge  
*Administrative Services Credential*

(Applicant ID 738)

**Nancy Matthews, Teacher (Grade 5)**

Lammersville School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5, 6–8

Highest Degrees/Certifications:

- Hayward State University  
*Multiple Subject Teaching Credential*
- San Francisco State University  
*Bachelor of Arts in Psychology*

(Applicant ID 739)

**J. Christopher Paulus, Instructor (Mathematics)**

Santa Maria High School

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 9–12

Highest Degrees/Certifications:

- Cal Poly State University, San Luis Obispo  
*Single Subject Teaching Credential*
- California State Polytechnic University, San Luis Obispo  
*Bachelor of Arts*

(Applicant ID 740)

**Julie McGough, Teacher (Grade 5)**

Azusa Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5

Highest Degrees/Certifications:

- Grand Canyon University  
*Master of Arts in Teaching*

- Biola University  
*Bachelor of Arts in Christian Education*

(Applicant ID 741)

**Yas-Meen West, Teacher (Grade 6)**

Cesar Chavez Middle School

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8

Highest Degrees/Certifications:

- Humboldt State University  
*Clear Multiple Subject Credential*
- Humboldt State University  
*Bachelor of Science in Psychology*

(Applicant ID 743)

**Jennifer Henry, Teacher (Grade 3)**

Perris Elementary School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5

Highest Degrees/Certifications:

- Azusa Pacific University  
*Master of Arts in Education*
- California State University, San Marcos  
*Bachelor of Arts in Psychology*
- Fullerton College  
*Associate of Arts in Liberal Studies*

(Applicant ID 744)

**Christa Wallis, Program Specialist**

San Bernardino City Unified School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: K–2, 3–5

Highest Degrees/Certifications:

- Chapman University  
*Master's in Psychology*
- University of California, Irvine  
*K-8 Standard Teaching Credential - Life*
- University of California, Irvine  
*Bilingual Cross-Cultural Specialist Credential--Life*
- University of California, Irvine  
*Bachelor of Arts in Spanish*

(Applicant ID 745)

**Jane Wentzel, University Supervisor**

California State University, Fresno

Area(s) of Expertise: Other area of expertise: Supervisor of student teachers and interns in grades 7-12

Grade and other Levels of Expertise: 6–8, 9–12

Highest Degrees/Certifications:

- Fresno Pacific University  
*Master's in Education, Secondary Emphasis*
- University of California, Santa Cruz  
*Std Secondary Teaching Credential, Mathematics*
- California State Polytechnic University, San Luis Obispo  
*Bachelor of Science in Mathematics*

(Applicant ID 746)

**Arlene Ashton, Teacher**

Black Mountain Middle School

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8

Highest Degrees/Certifications:

- National University  
*Master of Education*
- California State Polytechnic University, Pomona  
*Bachelor of Science in Economics*

(Applicant ID 747)

**Paul Ekk, Teacher**

Los Angeles Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5

Highest Degrees/Certifications:

- California State University, Dominguez Hills  
*Master of Arts in Education: Curriculum & Instruction and Multiple Subject with CLAD*
- California State University, Dominguez Hills  
*Single Subject: Foundational Level Mathematics, Social Science, and a Supplementary in German*
- Westminster Seminary California  
*Master of Arts in Theological Studies*
- University of California, Irvine  
*Bachelor of Arts in History & German*

(Applicant ID 748)

**Christine Newell, Teacher (Grade 5)**

Turlock Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5, 6–8

Highest Degrees/Certifications:

- California State University, East Bay  
*Master of Science Education (June 2013)*
- California State University, Stanislaus  
*Multiple Subject Credential*
- University of California, Santa Barbara  
*Bachelor of Arts in Communications and Religious Studies*

(Applicant ID 749)

**Maribel Guzman, Resource Specialist**

Los Angeles Unified

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2

Highest Degrees/Certifications:

- California State University, Los Angeles  
*Master of Arts in Educational Administration*
- California State University, Los Angeles  
*Master of Arts in Special Education*
- California State University, Los Angeles  
*Bachelor of Arts in Liberal Studies*
- California State University, Los Angeles  
*Multiple Subject Teaching Credential*

(Applicant ID 750)

**Jennifer Denton, Teacher (Mathematics)**

Davis Joint Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 9–12

Highest Degrees/Certifications:

- Sacramento State University of California  
*Single Subject Credential in Mathematics*
- California State University, Sacramento  
*Multiple Subject Credential with emphasis in Mathematics*
- University of California, Davis  
*Bachelor of Science in Psychology (with an emphasis in Math)*

(Applicant ID 751)

**Jennifer Tillson, Teacher (Grade 4) Multiple Subject**

Sundance Elementary

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5

Highest Degrees/Certifications:

- California State University, San Bernardino  
*Master Educational Administration*
- Purdue University  
*Master of Arts*
- California State University, San Bernardino  
*Teaching Credential*



- Salem State College  
*Bachelor of Arts*

(Applicant ID 752)

**Melanee Dismuke, Teacher**

Los Angeles Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 9–12

Highest Degrees/Certifications:

- University of California, Los Angeles  
*Master of Education*
- Hampton University  
*Bachelor of Science in Mathematics*

(Applicant ID 753)

**Vincent DeFabiis, Elementary School Teacher**

Mission Elementary School

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5, 6–8

Highest Degrees/Certifications:

- California State University, San Bernardino  
*Master of Science Educational Counseling (with PPS credential)*
- California State Polytechnic University, Pomona  
*Administrative Services Credential Certificate of Eligibility*
- California State University, San Bernardino  
*Multiple Subject Teaching Credential (Clear)*
- University of California, Riverside  
*Bachelor of Arts in Psychology Minor Sociology*

(Applicant ID 754)

**Kelli Wise, Teacher on Special Assignment**

Lake Elsinore Unified School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or

county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: 3–5, 6–8

Highest Degrees/Certifications:

- Azusa Pacific University  
*Master of Arts in Education: School Administration*
- Azusa Pacific University  
*Master of Education in Curriculum and Instruction*
- University of Washington  
*Bachelor of Arts in Mathematics Education*
- National Board for Professional Teaching Standards  
*National Board Certification: Early Adolescence Mathematics*

(Applicant ID 757)

**Louanne Myers, teacher**

San Lorenzo Valley Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5

Highest Degrees/Certifications:

- Western Governor's University  
*Master Degree in Educational Management and Innovation*
- University of California, Santa Cruz  
*Bachelor of Arts in Arts*
- Western Governor's University  
*Master Degree in Educational Management and Innovation*
- University of California, Santa Cruz  
*Bachelor of Arts in Arts*

**Schedule of Significant Events  
2014 Mathematics Primary Adoption  
(Accelerated Schedule per Assembly Bill 1246)**

<b>Event</b>	<b>Date(s)</b>
Survey of publisher interest	October 2012
Curriculum Framework and Evaluation Criteria Committee meets to develop criteria	November 1–2, 2012
Instructional Quality Commission (IQC) approves reviewer application and adoption timeline	December 10, 2012
IQC recommends evaluation criteria to the State Board of Education (SBE)	December 10, 2012
Assembly Bill 1246 takes effect	January 1, 2013
SBE approves modifications to California additions to the Common Core State Standards for Mathematics	January 16–17, 2013
SBE approves reviewer application and adoption timeline	January 16–17, 2013
SBE approves initiation of emergency regulations process. Authorizing legislation must be in place; regulations are good for 180 days.	January 16–17, 2013
SBE adopts evaluation criteria for CCSS-aligned instructional materials	January 16–17, 2013
Recruitment of reviewers (at least 90 days per 5 CCR §9513)	January 18–April 18, 2013
Invitation to Submit Meeting (Sacramento)	January 28, 2013
Small publisher fee waiver requests due	February 13, 2013
RSVP for second publisher briefing due	March 6, 2013
SBE takes action on publisher fee waiver requests	March 13–14, 2013
Second publisher briefing (Sacramento)	March 20, 2013
IQC recommends reviewers to SBE	April 19, 2013
SBE appoints reviewers	May 8–9, 2013
Submission List for programs (and other forms) due	May 15, 2013
Non-refundable publisher participation fees due	June 12, 2013
Reviewer Training (Sacramento)	June 18–21, 2013
Publishers provide samples of instructional materials to reviewers and Learning Resource Display Centers	July 5, 2013
Independent Review	July–August 2013
Reviewer Deliberations (Sacramento)	September 10–14, 2013
IQC holds a public meeting to receive comment (5 CCR §9524(a))	October 2013
IQC makes recommendation	November 21–22, 2013
SBE holds a public hearing to receive comment ( <i>Education Code</i> 60203 and 5 CCR §9524(b))	January 2014
SBE takes action on recommendation	January 2014

## 2014 Mathematics Primary Adoption Publisher Fee Reduction Request

The publisher listed below submitted their fee reduction request by the February 13, 2013, deadline and has met the criteria identified in California *Education Code* Section 60209 and *California Code of Regulations*, Title 5, Section 9517.3 for “small publisher” status. They have provided information indicating that they are:

- 1) An independently owned or operated publisher or manufacturer that is not dominant in its field of operation; and
- 2) Together with its affiliates, has 100 or fewer employees; and
- 3) Has average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years.

For the publisher listed below, the California Department of Education recommends the following reduced participation fees for the 2014 Mathematics Primary Adoption:

Publisher	3 Year Average of Gross Receipts	3 Year Average of Gross Receipts percentage of \$10,000,000	Recommended Participation Fee—per grade level, per program submitted for review
Center for Math and Teaching	\$757,892	7.58%	\$379



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 09**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### SUBJECT

English Language Development Supplemental Instructional Materials Review: Reviewer Approval.

- ☒ Action
- ☒ Information
- ☐ Public Hearing

#### SUMMARY OF THE ISSUE(S)

*Education Code (EC)* Section 60605.87, created by Senate Bill 1719 (Chapter 636 of the Statutes of 2012), requires the California Department of Education (CDE) to develop, and the State Board of Education (SBE) to approve, a list of English language development (ELD) supplemental instructional materials that are aligned with California's ELD standards, adopted in November, 2012. The law requires that the SBE approve the reviewers that will conduct the review of those supplemental materials.

#### RECOMMENDATION

The CDE recommends that the SBE approve the reviewers who have applied to participate in the 2013 ELD Supplemental Instructional Materials Review (ELD SIMR) and who are listed in Attachment 1.

#### BRIEF HISTORY OF KEY ISSUES

In 2010, the Council of Chief State School Officers (CCSSO) and the National Governors Association (NGA) Center for Best Practices released Common Core State Standards (CCSS) in mathematics and English language arts (ELA). The SBE adopted the CCSS with California additions on August 2, 2010. California has committed to implementing the CCSS and is currently part of a multistate assessment consortium that plans on having CCSS-based assessments in place by the 2014–15 school year.

In 2011, the State Superintendent of Public Instruction (SSPI) initiated a process for the review of supplemental materials aligned to the CCSS. SB 140, signed by the Governor on October 8, 2011, called for the expansion of that process. Pursuant to that legislation, the SSPI invited publishers of instructional materials in mathematics and language arts to submit supplemental instructional materials that bridge the gap between programs currently being used by local educational agencies (LEAs) and the CCSS. Assembly Bill 124, also signed by the Governor on October 8, 2011, called for ELD standards that are updated, revised, and aligned to the CCSS.

In 2012, AB 1719, signed by the Governor on September 27, 2012, called for ELD supplemental instructional materials that are aligned with the current ELD standards, provide a bridge to, and address the unique features of, the revised ELD standards, and remain consistent with the relevant elements of the evaluation criteria used for the ELA SIMR. The legislation also called for ELD SIMR evaluation criteria that are based upon the evaluation criteria approved by the SBE pursuant to *EC* Section 60605.86 (a).

The reviewer application window end date of March 15, 2013, has been extended until such time as sufficient number of applications has been received. A list of applicants through April 23, 2013, is attached (Attachment 1). The CDE will present additional applicants, if necessary, to the SBE at their scheduled July meeting and those applicants will not begin their review of instructional materials until the SBE has taken action on their approval.

### **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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**January 2013:** The CDE presented to the SBE the fourth in a series of updates on the implementation of the CCSS. The SBE approved the evaluation criteria for the ELD SIMR.

**November 2012:** The SBE approved the revised ELD standards that are aligned with the CCSS.

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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AB 1719 directs the CDE to “use federal carryover funds received pursuant to Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.)” to carry out the ELD SIMR. The CDE has budgeted \$500,000 from those funds to complete the project.

### **ATTACHMENT(S)**

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Attachment 1: English Language Development Supplemental Instructional Materials Reviewer Applicants (23 Pages).

English Language Development Supplemental Instructional Materials Reviewer  
Applicants

**630 - Laurie Chandley, English Language Development Program Specialist**  
Torrance Unified School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: K–2, 3–5, 6–8, 9–12

Highest Degrees/Certifications:

- California State University, Dominguez Hills  
*Master of Arts in Curriculum Design and Implementation*
- California State University, Dominguez Hills  
*Certificate of Administrative Services*
- California State University, Dominguez Hills  
*Single Subject Teaching Credential*
- University of La Verne  
*Bachelor of Arts in Political Science and International Relations*

Additional Language Proficiency: None Specified ()

**631 - Summer Prather-Smith, Teacher (RSP)**  
McKinnon Elementary school

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- UOP  
*Master of Arts in Special Education*
- California State University, Monterey Bay  
*Multiple Subject CLAD credential*
- San Diego State University  
*Liberal Studies*

Additional Language Proficiency: Spanish (Speak, Read, Write)



**633 - Robin Manly, Director - New Teacher Support**

Alliance College-Ready Public Schools

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: 6–8, 9–12

Highest Degrees/Certifications:

- California Polytechnic State University, Pomona  
*Master of Arts in Educational Leadership*
- Point Loma of Arts University  
*Tier II admin credential*
- California Polytechnic State University, Pomona  
*Tier I admin credential*
- California State University, Los Angeles  
*Bachelor of Arts in Journalism*

Additional Language Proficiency: None Specified ()

**634 - Marci Edge, Intervention Coordinator**

Los Angeles Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5

Highest Degrees/Certifications:

- California State University, Northridge  
*Masters of Educational Leadership*
- California State University, Northridge  
*Bachelor of Science*
- California State University, Northridge  
*California Teaching Credential*
- University of California, Los Angeles  
*Reading Specialist Credential*

Additional Language Proficiency: None Specified ()

**645 - Christopher J. Roe, Associate Professor**

California State University, Stanislaus

Area(s) of Expertise: Other area of expertise: Teacher Educator for Pre-Service Educators

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- University of Southern California  
*Ed.D.*
- USF  
*Master of Arts*
- California State University, Chico  
*Bachelor of Arts*
- California State University, Chico/St. Mary's  
*Teaching credential/ Admin. Credential*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**648 - Allison Huie, Instructional Coach - SIOP**

West Contra Costa Unified School District

Area(s) of Expertise: Teacher in private schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 9–12

Highest Degrees/Certifications:

- Texas A&M University  
*Ph.D. in Curriculum & Instruction, Culture & Curriculum*
- Texas A&M University  
*M.Ed. Curriculum & Instruction, English Education*
- Texas A&M University  
*Bachelor of Arts in Philosophy*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**650 - Jennifer Healy, Teacher / Department Chair**

Sinaloa Middle School

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 6–8

Highest Degrees/Certifications:

- University of California, Davis  
*Bachelor of Arts in English*
- University of California, Davis  
*Bachelor of Arts in Psychology*
- San Diego State University  
*Single Subject Clear Teaching Credential in English, CLAD*

Additional Language Proficiency: None Specified ()

**651 - Jose Maciel, Coordinator II - Ed Services, Migrant Ed.**  
San Joaquin County Office of Education

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- Fresno Pacific  
*MA-Ed - Admin Cred.*
- California State University, Fresno  
*Credential - Multiple Subjects, BCLAD*
- California State University, Fresno  
*Bachelor of Arts in Liberal Studies*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**656 - James Cochran, Instructional Coach**  
Lincoln Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5, 6–8; TCSJ Teacher Credentialling (IMPACT)

Highest Degrees/Certifications:

- California State University, Chico  
*Bachelor of Arts in Art*
- SJCCE IMPACT  
*Multiple Subject Credential*
- Teachers College San Joaquin  
*Administrative Services Credential*
- Teachers College San Joaquin  
*Master of Arts Ed. Leadership*

Additional Language Proficiency: None Specified ()

**658 - Jamie Salafia-Bellomo, Curriculum Specialist, English Learner Programs**  
Santa Ana Unified School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- National University  
*Master of Arts in Teaching: Reading Specialist*
- California Polytechnic State University, Pomona  
*Bachelor of Arts in Liberal Studies*
- California Polytechnic State University, Pomona/CDE  
*Ryan Multiple Subject Credential*
- CDE  
*Single Subject Credential: English, by examination*

Additional Language Proficiency: None Specified ()

**662 - Donna Jordan, Teacher (Grade 6 / ELA)**

San Bernardino City Unified School District - Arrowview Middle School

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- University of Redlands  
*Certificate of Eligibility - Administrative Services Credential*
- Kaplan University  
*Master of Arts in Teaching and Learning*
- University of California, San Diego - Extension  
*CLAD - Cross Cultural, Language and Academic Development Certificate*
- California State University, San Bernardino  
*Bachelor of Arts in Liberal Studies*

Additional Language Proficiency: None Specified ()

**664 - Tiffany Badger, Teacher (English Language Development)**

Placentia-Yorba Linda Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 9–12

Highest Degrees/Certifications:

- University of California, Los Angeles  
*Masters of Education*
- University of California, Los Angeles  
*Bachelor of Arts in English and Spanish*
- University of California, Los Angeles Extension  
*Teaching English to Speakers of Other Languages Certificate*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**666 - Sandra Orozco, Distinguished Teacher in Residence**  
San Marcos Unified School District

Area(s) of Expertise: Other area of expertise: Teacher on Special Assignment at CSUSM

Grade and other Levels of Expertise: K–2, 3–5; Credential Program

Highest Degrees/Certifications:

- USIU  
*California Professional Clear Mult Subject Teaching Credential, CLAD*
- National University  
*Master of Science Instructional Leadership*
- San Diego State University  
*Bachelor of Arts Psychology*

Additional Language Proficiency: Spanish (Speak, Read)

**673 - Ana Hernandez, Assistant Professor**  
California State University, San Marcos

Area(s) of Expertise: Other area of expertise: Professor in School of Education, Multilingual & Multicultural Education, Credential Programs

Grade and other Levels of Expertise: K–2, 3–5, 6–8; K-8 and University Level

Highest Degrees/Certifications:

- UCSD/CSUSM Joint Doctorate Program  
*Doctorate in Educational Leadership*
- California State University, Long Beach  
*Masters of Education - Education Administration*
- California State University, Long Beach  
*Masters of Education - Curriculum & Instruction*
- California State University, Long Beach  
*Bachelors - Liberal Studies*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**675 - Linda Montes, Director of ELD Services/ Principal**  
Redwood City School District

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: K–2, 3–5; University- BLCAD Credentialing Program- CSU, Chico

Highest Degrees/Certifications:

- University of Southern California  
*Ed.D. in Educational Leadership*
- Stanford University  
*Master of Arts in Education*
- San Francisco State University  
*Administrative Clear Credential*
- San Jose State University  
*Bilingual Certificate of Competence in Spanish*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**678 - Ana Ogea, Teacher (English Language Development)**

Victor Valley Union High School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5, 6–8, 9–12

Highest Degrees/Certifications:

- California State University, San Bernardino  
*Master in TESOL*
- California State University, San Bernardino  
*Bachelor of Arts*
- Normal Superior Federal, Campeche, Mexico  
*Licenciada en Education Media (area Ingles)*
- Instituto Campechano en Mexico  
*Maestra de Kindergarten*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**679 - Becky Moore, Academic Coach**

Gonzales Unified School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: K–2, 3–5

Highest Degrees/Certifications:

- Marysgrove College  
*Master of Arts in Reading and Literacy*
- California State University, Monterey Bay  
*Multiple Subject Credential - CLAD Emphasis*

- California State University, Monterey Bay  
*Bachelor of Arts in Liberal Studies*
- Hartnell College  
*AA - General Studies*

Additional Language Proficiency: None Specified ()

**691 - Katherine Thorne, EL Literacy Specialist**  
Green Dot Public Schools

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: 9–12

Highest Degrees/Certifications:

- California State University, Northridge  
*Master of Arts in Educational Leadership w/ Preliminary Administrative Credential*
- Pepperdine University  
*Master of Arts in Education w/ Single Subject Teaching Credential in English & CLAD certificate*
- University of California, Los Angeles  
*Bachelor of Arts in English*

Additional Language Proficiency: None Specified ()

**692 - Carol Rothenberg, Resource Teacher**  
San Diego Unified School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: 3–5, 6–8, 9–12

Highest Degrees/Certifications:

- Portland State University  
*Master of Science in Special Education*
- Portland State University  
*Administrative Credential*
- Chapman College  
*K-12 Teaching Credential: Spanish*
- University of Oregon, Eugene OR  
*Bachelor of Arts in Spanish*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**693 - Shelby Madden, Teacher (English Learner Resource)**

San Diego Unified School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: K–2, 3–5

Highest Degrees/Certifications:

- National University  
*Master of Science in Educational Technology*
- San Diego State University  
*Professional Clear Multiple Subject Teaching Credential, CLAD Emphasis*
- University of California, Riverside  
*Bachelor of Arts Liberal Studies*

Additional Language Proficiency: None Specified ()

**694 - Elizabeth Pappas, Teacher (English Learner Resource)**

San Diego Unified, Office of Language Acquisition

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: 3–5

Highest Degrees/Certifications:

- San Diego State University  
*BCLAD Credential, Spanish*
- San Diego State University  
*Bachelor of Arts in SumMaster of Arts Cum Laude*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**695 - Sally Johnson, Teacher (English Learner Resource)**

San Diego Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2



Highest Degrees/Certifications:

- San Diego State University  
*Masters Elementary Curriculum Emphasis Early Childhood Ed.*
- University of California, Los Angeles  
*Bachelor of Arts in Social Science*
- State of California  
*Administrative Credential*
- University of California, Los Angeles  
*California Elementary Teaching Credential K-9*

Additional Language Proficiency: None Specified ()

**696 - Maria Salazar, English Learner Coach**

Delhi Unified School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- California State University, Stanislaus  
*Administrative Credential*
- California State University, Stanislaus  
*Multiple Subjects Credential*
- California State University, Northridge  
*Masters of Public Health*
- University of California, Santa Barbara  
*Bachelors of Science*

Additional Language Proficiency: Spanish (Speak, Read)

**697 - Rhoda Coleman, Research Fellow (CSULB), Adjunct Professor (USC)**

California State University, Long Beach / University of Southern California

Area(s) of Expertise: Self employed

Grade and other Levels of Expertise: K–2, 3–5; University

Highest Degrees/Certifications:

- University of Southern California  
*Doctor of Education/Language and Literacy*
- Loyola Marymount  
*Masters in Reading*

- California State University, Los Angeles  
*Masters in Administration*
- University of Southern California  
*Bachelors Social Sciences*

Additional Language Proficiency: None Specified ()

**698 - Cynthia Craft, Teacher (Literacy Project Resource / Special Education)**  
San Diego Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5

Highest Degrees/Certifications:

- University of LaVerne  
*Masters of Education in Reading*
- University of San Diego  
*Educational Leadership and Administration*
- University of California, San Bernadine  
*Reading Recovery Teacher Leader Certificate*
- Northern Arizona University  
*Bachelor of Science Business Administration*

Additional Language Proficiency: None Specified ()

**699 - Lorena Sanchez, Teacher (Grade 3 Bilingual)**  
Tracy Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5

Highest Degrees/Certifications:

- Project Impact/University of the Pacific (Stockton)  
*Multiple Subject Credential*
- University of California, Davis  
*Bachelor's Degree in Spanish*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**700 - Josephine Fierro, Categorical Programs Manager**  
Lodi Unified School district

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: K–2, 3–5; University

Highest Degrees/Certifications:

- California State University, Fresno  
*Administrative Credential*
- California State University, Fresno  
*Masters in Ed: Emphasis in Reading/Lang Arts*
- California State University, Fresno  
*Teaching Credential: BCC*
- California State University, Fresno  
*Bachelor of Arts*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**703 - Carol Mehochko, Administrator, ELL Services**  
Bakersfield City School District

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- California State University, Bakersfield  
*Master in Education - Curriculum and Instruction*
- Blackburn College  
*Bachelor of Arts in Elementary Education*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**704 - Tory Leung, Teacher (English Language Development)**  
Fremont Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5

Highest Degrees/Certifications:

- California State University, Fresno  
*Bachelor of Arts in Liberal Studies (Credential Option)*
- California State University, Fresno  
*CA Professional Clear Teaching Credential*
- CSU Santa Clara Extension  
*CLAD Certification*

Additional Language Proficiency: None Specified ()

**705 - Caroline Calero, Assistant Principal, Watsonville High School**

Pajaro Valley Unified School District

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: K–2, 3–5, 6–8, 9–12

Highest Degrees/Certifications:

- San Jose State University  
*Masters, Educational Leadership*
- San Jose State University  
*Credential, Multiple Subject*
- San Jose State University  
*Bachelor of Arts in Social Work*

Additional Language Proficiency: Spanish (not fluent, level 2 but communicate) (Speak, Read, Write)

**706 - Karin Linn-Nieves, Coordinator, Multilingual Education**

San Joaquin County Office of Education

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: K–2, 3–5

Highest Degrees/Certifications:

- California State University, Sacramento  
*Master of Arts in Spanish*
- California State University, Sacramento  
*Clear Administrative Credential*
- California State University, Sacramento  
*BCLAD & Single Subject Teaching Credentials*
- University of California, Davis  
*Bachelor of Arts in Spanish*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**707 - Heather Haggart, Teacher on Special Assignment**

Newhall School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- California State University, Northridge  
*Master's Degree in Educational Leadership and Policy Studies*
- Brigham Young University  
*Bachelor's Degree with Honors, Elementary Education*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**708 - Kelli McMillan, Teacher (English Learner Resource)**

San Diego Unified School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: 6–8

Highest Degrees/Certifications:

- National University  
*Master of Science in Educational Technology*
- San Diego State University  
*CLAD*
- San Diego State University  
*Professional Clear Multiple Subject Cred.*
- San Diego State University  
*Bachelor of Arts in History*

Additional Language Proficiency: None Specified ()

**711 - Elvia Munguia, Teacher (English Learner Resource)**

San Diego Unified School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: K–2, 3–5

Highest Degrees/Certifications:

- Fielding Graduate University  
*Master of Arts in Collaborative Educational Leadership*
- Fielding Graduate University  
*Preliminary Administrative Services Credential*
- San Diego State University  
*Professional Clear Multiple Subject Teaching Credential, BLCAD Emphasis*

- San Diego State University  
*Bachelor of Arts in Liberal Studies*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**712 - Debra Baadilla, Teacher (Grade 3 / EL Coordinator)**  
Romoland School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5

Highest Degrees/Certifications:

- University of California, Riverside  
*Master of Science in Education*
- University of California, Riverside  
*Administrative Services Credential (2005)*
- NBPTS  
*National Board Certification, English as a New Language (2002, renewed 2011)*
- GLAD headquarters, Orange County Office of Education  
*GLAD (Guided Language Acquisition Design) Agency trainer certification, (2009)*

Additional Language Proficiency: Spanish (Speak, Read)

**713 - Annie Duong, Coordinator II**  
San Joaquin County Office of Education

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: K–2, 3–5, 6–8, 9–12; University - Teacher Education

Highest Degrees/Certifications:

- University of the Pacific  
*Doctor of Education*
- California State University, Stanislaus  
*Master of Arts*
- California State University, Stanislaus  
*Professional Clear Administrative Credential*
- California State University, Stanislaus  
*Baccalaureate*

Additional Language Proficiency: Vietnamese (Speak, Read, Write)

### **714 - Lynnette Hawkins, Coordinator**

#### **Action Learning Systems**

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: 6–8, 9–12

Highest Degrees/Certifications:

- University of California, Santa Barbara  
*Masters of Education*
- University of California, Santa Barbara  
*Single Subject Credential, English*
- University of California, Santa Barbara  
*CLAD*
- University of California, Santa Cruz  
*Bachelor's Degree*

Additional Language Proficiency: Spanish (Read)

### **715 - Katie Sedgwick, Curriculum Enrichment Teacher**

#### **Coronado Unified School District**

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5

Highest Degrees/Certifications:

- University of California, Santa Cruz  
*Master of Arts in Education*
- University of California, Santa Cruz  
*CLAD Multiple Subject Teaching Credential*
- San Francisco State University  
*Bachelor's Liberal Studies*
- San Diego Mesa College  
*Associate of Arts - Dramatic Arts*

Additional Language Proficiency: None Specified ()

### **716 - Holly Ahmadi, EL Coordinator**

#### **Butte County Office of Education**

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or

county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: K–2, 3–5, 6–8, 9–12

Highest Degrees/Certifications:

- California State University, Chico  
*Master of Arts in Teaching International Languages*
- California State University, Northridge  
*CLAD Credential*
- California State University, Chico  
*Bachelor of Arts in Spanish*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**717 - Sylvia Kane, Assistant Professor of Education**  
Vanguard University

Area(s) of Expertise: Other area of expertise: Teacher Educator

Grade and other Levels of Expertise: 6–8, 9–12; Graduate Education

Highest Degrees/Certifications:

- Azusa Pacific University  
*Ed.D. in Educational Leadership*
- California State University, Los Angeles  
*Master of Arts in Education, Reading Specialist Credential*
- California State University, Los Angeles  
*Bachelor of Arts in Child Development*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**718 - Cynthia McBride, Bilingual Resource Teacher**  
Solana Beach School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- San Diego State University  
*Clear Administrative Credential*
- California State University, East Bay  
*Masters Degree in Educational Leadership*
- California State University, East Bay  
*Teaching Credential - BCLAD*



- San Diego State University  
*Bachelors Degree*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**719 - Marisela Ornelas, Teacher (English Language Development)**  
Delhi Unified School District

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5, 6–8, 9–12

Highest Degrees/Certifications:

- California State University, Stanislaus  
*Bachelors of Science in Business Administration*
- California State University, Stanislaus  
*BCLAD Multiple Subject Credential*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**720 - Angelica Hurtado, EL K-6 Coordinator**  
San Bernardino City USD

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: K–2

Highest Degrees/Certifications:

- State of California  
*Administrative credential*
- University of California, Riverside  
*Teaching Credential*
- University of California, Riverside  
*Bachelor of Arts*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**721 - Ernestina Hernandez, Teacher (Grade 6)**  
Plummer Elementary School

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5; 6th Grade at an Elementary School

Highest Degrees/Certifications:

- California State University, Northridge  
*Masters in Educational Leadership and Policy Studies*
- Mount Saint Mary's College  
*Bachelor of Arts in Liberal Arts*
- California Commission on Teacher Credentialing  
*California Teaching Credential*
- California Commission on Teacher Credentialing  
*Cross-Cultural Language and Academic Development*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**722 - Christy Reese, English Learner Coordinator / Teacher**  
Keiller Leadership Academy

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5, 6–8

Highest Degrees/Certifications:

- San Diego State  
*Preliminary Administrative Credential*
- University of Phoenix  
*Master's in Education*
- Ohio State University  
*Bachelor of Arts in Comparative Studies*
- Mesa Community College  
*Full ESL K-12 Endorsement in Arizona*

Additional Language Proficiency: None Specified ()

**723 - Candace Kelly Hodge, Assistant Professor, Adjunct**  
University of Southern California

Area(s) of Expertise: Other area of expertise: Teacher Educator

Grade and other Levels of Expertise: K–2, 3–5, 6–8, 9–12; University Professor

Highest Degrees/Certifications:

- University of California, Santa Barbara  
*Ph.D. in Administrative Services Specialist, Education Leadership*
- California State University, Chico  
*Master of Arts in Bilingual Education*
- California State University, Sonoma  
*Bachelor of Arts Spanish-Linguistics*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**727 - Luzelena Rosales, English Learner Programs Support Teacher**  
San Bernardino City Unified School District

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve (e.g., mentor teacher or certificated teacher employed by school districts or county offices of education who is not in a position that requires a service credential with a specialization in administrative services).

Grade and other Levels of Expertise: K–2, 3–5

Highest Degrees/Certifications:

- Loyola Marymount University  
*Leadership in Biliteracy for English Learners*
- University of California, Riverside, Extension Center  
*Biliteracy Specialist Certificate*
- California State University, San Bernardino  
*Two-Way Immersion: Biliteracy Specialist Certificate*
- California State University, San Bernardino  
*Bachelor of Arts Liberal Studies/Bilingual Emphasis (BCLAD equivalent)*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**729 - Christina Fischer, Credentialed Teacher**  
Visions in Education Charter School

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5, 6–8, 9–12

Highest Degrees/Certifications:

- California State University, Sacramento  
*Masters in Education, Language and Literacy emphasis*
- Exam  
*Preliminary Administrative Credential*
- California State University, Sacramento  
*Reading Specialist Credential*
- California State University, Sacramento  
*Multiple Subjects Teaching Credential*

Additional Language Proficiency: None Specified ()

**733 - Zandra Galvan, Director of Curriculum and Instruction**

Gonzales Unified School District

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- San Jose State University  
*Master of Arts and Administrative Credential*
- California State University, Monterey Bay  
*Master of Arts in Curriculum and Instruction*
- California State University, Fresno  
*Bachelor of Arts in Liberal Studies*
- Hartnell College  
*AA in General Studies*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**742 - Merianne Segovia, Support Provider**

Chaffey Joint Union High School District

Area(s) of Expertise: Other area of expertise: Teacher on Assignment Working in the BTSA program as a Support Provider

Grade and other Levels of Expertise: 9–12

Highest Degrees/Certifications:

- Concordia University, Irvine  
*MA Ed in Curriculum and Instruction*
- National Board of Professional Teaching Standards (NBPTS)  
*National Board Certification in English as a New Language: Early Adolescence to Young Adulthood*
- University of California, Riverside Extension  
*Reading Specialist Credential*
- California State University, Fullerton  
*CLAD Certificate*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**755 - Greta Benavides, Teacher (5-6 Combo)**

South Whittier School district

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- Biola University  
*Masters in Education*
- California State University, Fullerton  
*Bachelor of Arts in Fine Arts with Honors*
- Santa Ana College  
*AA Childhood Development with honors*

Additional Language Proficiency: Spanish (Speak, Read)

**765 - Heather Cleland, Teacher (Grade 5)**  
Sedgwick Elementary School

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 3–5

Highest Degrees/Certifications:

- Santa Clara University  
*K12 Reading Specialist Credential*
- Santa Clara County Office of Education  
*Administrative Services Credential*
- DePaul University  
*Masters in Elementary Education*
- Michigan State University, MI  
*Bachelor of Arts*

Additional Language Proficiency: None Specified ()

**785 - Monica Valdez, Teacher / EL Coordinator**  
Montclair High School

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: 9–12

Highest Degrees/Certifications:

- California State University, Fullerton  
*Master of Science in TESOL*
- University of Southern California  
*Bachelor of Arts in English (Language & Literature)*

Additional Language Proficiency: Spanish (Speak, Read, Write)

**791 - Candice Bennett, Robla School EL Support Teacher**  
Robla Elementary School

Area(s) of Expertise: Teacher in public schools providing instruction to students in kindergarten or grades one to twelve.

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Highest Degrees/Certifications:

- Chapman University  
*CA Multiple Subject Teaching Credential with CLAD Emphasis*
- Portland State University  
*Bachelor of Arts*

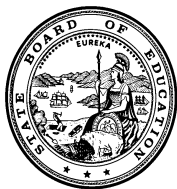
Additional Language Proficiency:      None Specified



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 10**



## CALIFORNIA STATE BOARD OF EDUCATION

### May 2013 AGENDA

#### SUBJECT

Update on the public process to revise and adopt the *Science Content Standards for California Public Schools, Kindergarten through Grade Twelve* based upon the nationally developed *Next Generation Science Standards* as required by *Education Code* 60605.85.

- ☒ Action
- ☒ Information
- ☐ Public Hearing

#### SUMMARY OF THE ISSUE(S)

This agenda item provides the State Board of Education (SBE) and the public information on the public process that the California Department of Education (CDE), in collaboration with the California Comprehensive Center (CA CC) at WestEd, intends to utilize to revise and adopt the *Science Content Standards for California Public Schools, Kindergarten through Grade Twelve* based upon the nationally developed *Next Generation Science Standards* as required by *Education Code* (EC) Section 60605.85.

#### RECOMMENDATION

The CDE recommends that the SBE take action as deemed necessary and appropriate but recommends no specific action at this time.

#### BRIEF HISTORY OF KEY ISSUES

EC Section 60605.85 required the State Superintendent of Public Instruction (SSPI) to submit a set of revised *Science Content Standards for California Public Schools, Kindergarten through Grade Twelve* to the SBE by July 31, 2013, and the adoption, rejection, or modification of those standards by November 30, 2013. The revised science standards for California must be based upon the nationally developed Next Generation Science Standards (NGSS).

The NGSS were released by Achieve, Inc. on April 9, 2013. The Standards as well as additional information is available on the NGSS Web site at <http://www.nextgenscience.org/>.

Stephen Pruitt, Ph.D., Vice President of Content, Research and Development with Achieve, Inc. will present an overview of the final NGSS and address the revisions that have been made from the last public version of standards that were released in January of 2013.



Upon this release of the final draft of the NGSS, the CDE, with support of the CA CC of WestEd, has continued to work on a process to recommend the *Science Content Standards for California Public Schools, Kindergarten through Grade Twelve* to the SBE. The process encompasses several steps involving the SRT and a panel of science experts who are representative of the SRT, referred to as the Science Expert Panel (SEP). With the release of the final draft of the NGSS, the CDE, with support from the CA CC, will conduct a survey of SRT members to seek their input regarding the final draft of the NGSS.

Included in this process were three regional public forums. These forums provided the public an opportunity to comment on the proposed standards for California. The regional public forums were scheduled as follows:

- April 29, 2013 – Sacramento County Office of Education
- April 30, 2013 – Santa Clara County Office of Education
- May 2, 2013 – Riverside County Office of Education

At these meetings, public stakeholders received background on the NGSS and the proposed California Science Standards. The public had an opportunity to provide input for consideration by the SEP.

The CDE and CA CC staff will compile and summarize public input and share the data with the SEP at its next meeting in late May 2013.

As a final step, the SEP will then reconvene and use the feedback from the SRT to draft a final proposal of new *Science Content Standards for California Public Schools, Kindergarten through Grade Twelve*. The SSPI will submit the proposed draft standards to the SBE in July of 2013 for its review.

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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**March 2013:** Phil Lafontaine, Director of the Professional Learning Support Division, shared an update of the NGSS development process.

**November 2012:** The CDE updated the SBE through an Information Memorandum on the development of NGSS.

**May 2012:** At its May 2012 meeting, The CDE staff presented on the progress and timeline of the development of the NGSS along with Dr. Stephen L Pruitt, Vice President for Content, Research, and Development at Achieve, Inc.

**November 2011:** The CDE's presentation also provided information on the requirements of Senate Bill 300. Specifically, the SSPI was required to recommend science content standards—utilizing the NGSS as their basis—to the SBE by March 30, 2013. The SBE was required to adopt, reject, or modify those standards by July 30, 2013. Information regarding the state's involvement in the national process for the development of the NGSS was discussed.

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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Projected estimated costs for participating in the development of the NGSS are approximately \$186,000. CDE is seeking foundation funding to cover the costs of required trips to Washington D.C, convening the California teams, and for staff to coordinate the logistics associated with the development of the draft NGSS standards for California.

## **ATTACHMENT(S)**

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Attachment 1: Timeline for the Development of the Next Generation of Science Standards (1 Page).

Attachment 2: CDE Timeline of Next Generation Science Standards Development Process (1 Page).

Attachment 3: California Science Standards Review and Adoption Process (2 Pages).

Attachment 4: [Final draft of the NGSS \(Outside Source\)](#).

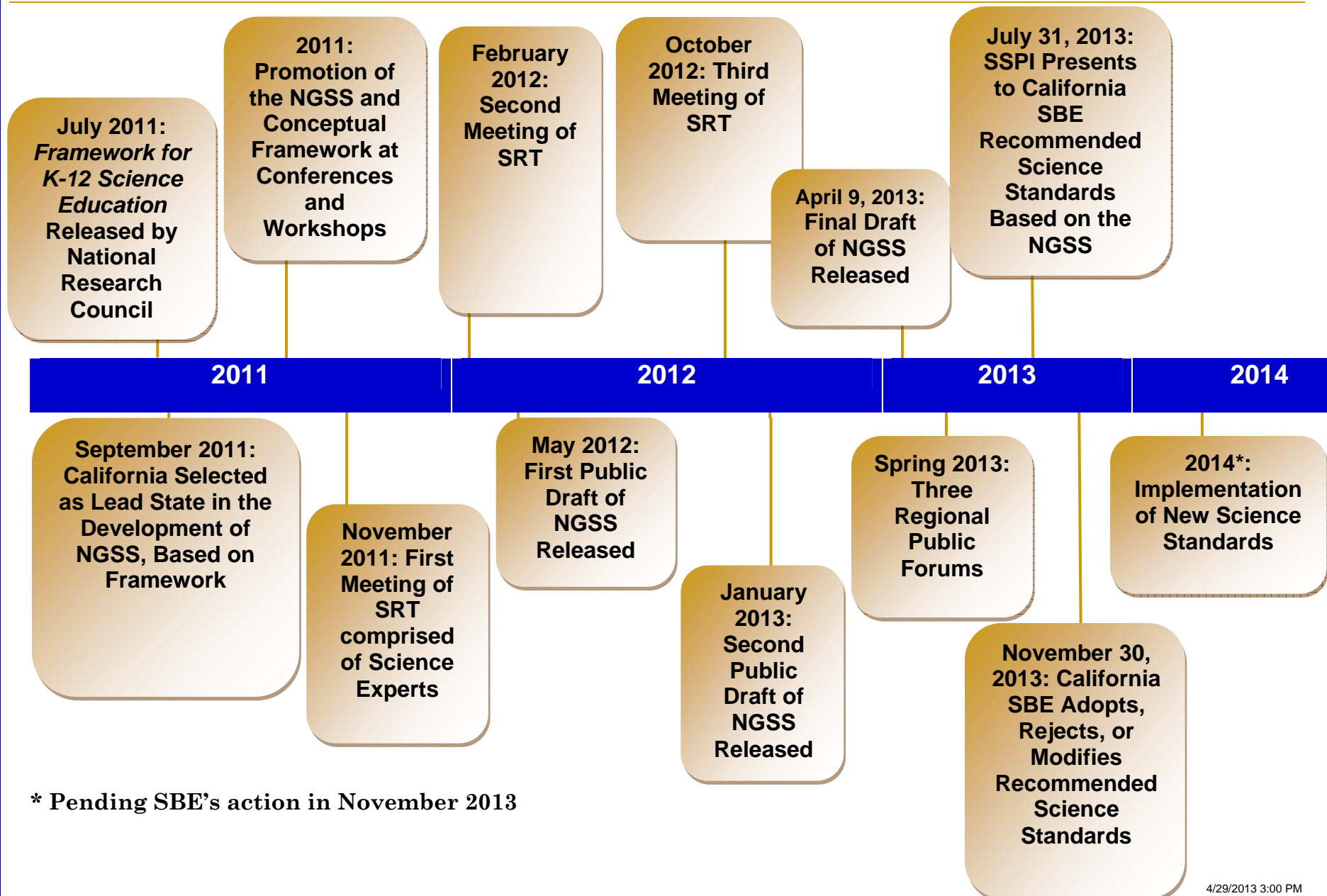
## Timeline for the Development of the Next Generation Science Standards

The information provided below outlines the general development process and timeline and it is replicated from the Next Generation Science Standards (NGSS) Development Process Web page at <http://www.nextgenscience.org/development-process>.

The NGSS has been through several rounds of review with multiple stakeholder groups. Each group received draft standards at least twice throughout the development process.



## Next Generation Science Standards Development Process



## **California Science Standards Review and Adoption Process**

### **Context**

The Next Generation Science Standards (NGSS) are designed to serve as high quality college and career-ready K-12 standards ready for state adoption. Twenty-six states, including California, have participated in the national development process facilitated by Achieve, Inc. The NGSS are based on the July 2011 National Research Council's *A Framework for K-12 Science Education: Practices, Crosscutting Concepts, and Core Ideas*. The development process has engaged numerous stakeholders, including nationally-recognized leaders in science, science education, higher education, and industry. The NGSS have undergone multiple reviews, including two public drafts. As required by this national process, California selected a group of 80 science experts, known as the State Review Team (SRT) to conduct confidential reviews of the various drafts of the NGSS. The final version of the NGSS was released on April 9, 2013.

### **Purpose**

For the NGSS to be used in California schools, they must be reviewed and adopted by the State Board of Education (SBE). Senate Bills 300 and 1200 require that by July 31, 2013, the Superintendent of Public Instruction (SSPI) submit new science standards to the SBE for review and consideration. Given that the final NGSS were released on April 9, 2013, this means that California must initiate a fast-paced process to engage key stakeholders in reviewing the NGSS so the SSPI is able to recommend set of standards for consideration and adoption by July 31, 2013. Given the compressed timeline, the CDE will enlist the help of select members of the SRT, referred to as SEP, to review and analyze the NGSS, and develop a first draft for public review and comment by late April 2013. Below is the proposed process and timeline for engaging subject-matter experts and other science, education, business, and community stakeholders in this review.

### **Proposed Review Timeline:**

Late January 2013

- Subject-area analysis groups analyze NGSS and current CA standards

April 9, 2013

- Final draft of NGSS released

May 2013

- SEP reviews the NGSS work group analysis and survey input
- SEP develops first draft of the CA Science Standards

- Regional public stakeholder forums and compilation of public input
- SEP reviews public input from stakeholder forums
- SEP develops second draft of CA Science Standards
- SRT reviews the latest draft of the CA Science Standards and submits comments to the SEP
- SEP reviews SRT comments and prepares final proposed CA Science Standards

#### June 2013

- SEP submits their final recommendations to the SSPI
- The SSPI will review the SEP recommendations and submit a final set of standards to the State Board of Education (SBE) at its July 2013 meeting for consideration.

#### July 2013

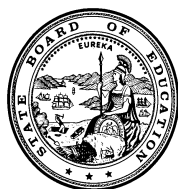
- SBE review of proposed CA Science Standards for consideration of adoption. The SBE, by law, has until November 2013 to adopt, modify or reject the proposed standards.



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 11**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### SUBJECT

Adoption of *Standards for Evaluating Instructional Materials for Social Content 2013 Edition*.

- ☒ Action
- ☒ Information
- ☐ Public Hearing

#### SUMMARY OF THE ISSUE(S)

Senate Bill 48 (Chapter 81, Statutes of 2012) amended *Education Code (EC)* sections 51204.5 (addressing instruction), 50501, 60040(b) and 60044(a) (addressing instructional materials) to include the contributions of gay, lesbian, bisexual and transgender individuals as appropriate, and to prohibit any pejorative references to the same. Additionally, Assembly Bill 300 (Chapter 552, Statutes of 2003) amended *EC* Section 60040(b) to replace the term "American Negroes" with the term "African Americans." The *Standards for Evaluating Instructional Materials for Social Content 2013 Edition* reflecting those statutory amendments is presented in Attachment 1.

#### RECOMMENDATION

The State Superintendent of Public Instruction recommends that the State Board of Education (SBE) adopt the *Standards for Evaluating Instructional Materials for Social Content 2013 Edition*.

#### BRIEF HISTORY OF KEY ISSUES

The SBE adopted the *Standards for Evaluating Instructional Materials for Social Content* in 2000. The document provides guidance to the California Department of Education (CDE) and to local education agencies on the social content requirements for instructional materials used in California schools. Subsequent legislation, including SB 48 (Leno), Chapter 81, Statutes of 2012, has amended the *EC* sections pertaining to those requirements.

The proposed amendments to the *Standards for Evaluating Instructional Materials for Social Content 2013 Edition* include:

- The replacement of the term "American Negroes" with the term "African Americans" (*EC* Section 60040)



- The addition of a citation (*EC* Section 50501) for the sections on Male and Female Roles, Ethnic and Cultural Groups, and Religion
- The addition of the section on Sexual Orientation (*EC* sections 50501, 60040(b), and 60044(a))
- The addition of citations (*EC* sections 50501, 60040(b), and 60044(a)) for the section on People with Disabilities
- The replacement of the term “Diet and Exercise” with “Nutrition and Physical Activity”
- Various formatting, grammatical and personnel updates

#### **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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**January 13, 2000:** Pursuant to *EC* sections 60040 through 60044, 60048 and 60200, the SBE adopted the *Standards for Evaluating Instructional Materials for Social Content 2000 Edition*.

#### **FISCAL ANALYSIS (AS APPROPRIATE)**

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Once the *Standards for Evaluating Instructional Materials for Social Content 2013 Edition* is adopted, the Curriculum Frameworks & Instructional Resources Division staff will format the document for posting on the CDE Web site. There will be no production costs.

#### **ATTACHMENT(S)**

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Attachment 1: *Standards for Evaluating Instructional Materials for Social Content 2013 Edition* (19 pages)

## ***Standards for Evaluating Instructional Materials for Social Content***

### ***2013 Edition***

#### **Foreword**

The *Standards for Evaluating Instructional Materials for Social Content* reflect California's continuing effort to ensure that the instructional materials we use in our public schools contribute to a positive educational experience for all students. These standards are based on California law as well as policies established by the State Board of Education regarding matters of social importance.

Instructional materials play an important role in forming a child's attitudes; therefore, these materials need to reflect a multicultural society and to avoid stereotyping. The following standards ensure that instructional materials contain appropriate depictions of matters such as male and female roles, older people and the aging process, people with disabilities, and religion.

The standards also address other sensitive issues, including brand names and corporate logos. In addition, the standards provide for exceptional situations where less than full compliance is allowed, including classical or contemporary literature; music, art, stories, or articles; and the presentation of historical perspectives.

These social content standards are used by evaluators at the state level to determine instructional materials' compliance with legal requirements and State Board policy. In addition, we encourage local educational agencies to review these standards carefully in their own selection of instructional materials. This document will help ensure that locally selected materials comply with the requirements for social content.

TOM TORLAKSON  
State Superintendent of Public Instruction

MICHAEL KIRST  
President  
California State Board of Education

## **Standards for Evaluating Instructional Materials for Social Content**

Research has documented that the interests, prejudices, and ideas children develop as they mature are influenced directly by everything they see and hear. Much of a child's early development takes place in school; therefore, instructional materials contribute to a positive or negative school experience. The California Legislature recognized the vital role of instructional materials in the formation of a child's attitudes and beliefs when it adopted *Education Code* sections 60040 through 60044, 60048, and 60200 (see the Appendix).

In addition to providing positive school experiences and encouraging students' aspirations, instructional materials should reflect a pluralistic, multicultural society composed of unique individuals. The *Education Code* sections referenced in this document are intended to help end stereotyping in instructional materials by showing diverse people in positive roles contributing to society. Instructional materials used by students in California public schools should never portray in an adverse or inappropriate way the groups referenced in the laws.

### **Purpose of Standards**

The laws require that instructional materials portray accurately and equitably the cultural and racial diversity of American society; the male and female roles; and the contributions of minority groups, the disabled, gay, lesbian, bisexual, and transgendered individuals, and males and females to the development of California and the United States. These requirements imply that instructional materials must also help students to understand both the historical roles and the contributions of women and minorities in other societies; the forces that shaped those roles and contributions; and how and why the roles and contributions of contemporary American women and minorities differ from those of women and minorities at other times and in other cultures.

Many evaluators are needed to review the large number of instructional materials that are submitted to the California Department of Education. Those materials must be examined for legal compliance with the various social content requirements specified in the *Education Code*. Evaluators must use individual judgment to determine whether materials do in fact comply. This document provides reasonable, systematic standards on which evaluators may base their judgments so that the evaluation will be as consistent and equitable as possible.

There are standards pertaining to age and nutrition that are not referenced in statute. These standards are based on policies adopted by the State Board of Education. As such, the standards regarding those areas must be considered by those who review for compliance. Policy areas are identified by the date of Board approval, not by statutory code sections.

In applying the standards to instructional materials, evaluators should consider special circumstances under which compliance is not required. Those special circumstances are described below.

## Special Circumstances

Less than full compliance may be allowed under the following special circumstances:

1. *Literary, historical, and cultural perspectives.* When examining instructional materials for adverse reflection or roles, an evaluator must make a qualitative judgment of classical or contemporary literature (including folktales), music, art, stories, or articles having a particular historical or cultural perspective. Complete compliance with the guidelines may be inappropriate in some cases. What might be considered an adverse reflection or a failure to portray appropriate roles should be judged in the context of high-quality literary works. Discussion material should be included in the teacher's edition of instructional materials indicating that, although a particular attitude toward women or a minority group was prevalent during a period in history, that attitude has changed or is changing.
2. *Reference to humans.* Not all instructional materials need to include references to human beings. For instance, math problems described solely in abstract terms or stories about animals without human attributes are perfectly acceptable in instructional materials but are outside the scope of the standards. In addition, materials that contain references to children need not include references to adults even though this omission may limit the scope of the roles and contributions that can be presented.
3. *Special purpose—limited portrayals.* Several kinds of circumstances make it necessary to modify requirements regarding proportion and balance of portrayals. These circumstances do not eliminate the need to carefully review for adverse reflection or derogatory references, but they do make it difficult to achieve the usual kind of required balance.
  - a. *Narrow focus—limited scope and content.* An evaluator must consider the number of characters presented and the relationships among them; if the material includes only three or four main characters or if all of the main characters are members of the same family, obviously it will be unrealistic to expect portrayal of a wide diversity of ethnic groups or roles and contributions. If the setting is restricted to a limited locale, such as an inner-city ghetto or a sparsely settled desert region, the possibilities for showing a wide range of socioeconomic groups in a wide range of activities are necessarily limited. Materials with a narrow focus and/or limited portrayals should be clearly identified as such so that no false impressions are conveyed.

- b. *Infrequent use*. The materials are designed to be used infrequently (example: a test to be administered only two or three times a year).
  - c. *Small group*. The materials are part of a small group of materials that are designed for a special purpose (example: an enrichment series of pamphlets with fewer than eight pamphlets per grade level).
  - d. *Audience*. The intended audience is other than students (example: parents).
  - e. *Ancillary materials*. These materials are part of the core program and support the basic program (example: workbooks, test booklets, transparencies, tapes, and slides).
4. *Series*. When conducting a compliance review of a series of instructional materials designed to be used as a basic program, an evaluator must judge each grade level individually without regard to the content of any other component. However, it is important to consider certain exceptions referred to previously under "Special purpose."
5. *Teachers' materials*. Evaluators must use the standards for reviewing students' and teachers' materials. Two considerations are especially important in connection with teachers' materials: (1) In no case may instructions in a teacher's edition designed to counteract noncompliant pictures or text in a student's edition be given any weight in the evaluation of the student's edition. (2) Instructions to the teacher about students' activities that could reasonably be expected to cause adverse reflection or represent roles inaccurately must be considered noncompliant even though those instructions are not seen by the student.

## **Male and Female Roles**

*Education Code Sections 51501, 60040(a), and 60044(a)*

**Purpose.** The standards promote the individual development and self-esteem of each student, regardless of gender.

**Method.** The standards will be achieved by portraying people of both sexes in the full range of their human potential in all societal roles.

**Applicability of Standards.** The standards regarding adverse reflection and equal portrayal must be applied in every instance. The other standards require compliance when appropriate.

1. *Adverse reflection.* Descriptions, depictions, labels, or rejoinders that tend to demean, stereotype, or patronize males or females because of their sex must not appear.
2. *Equal portrayal.* Instructional materials containing references to, or illustrations of, people must refer to or illustrate both sexes approximately evenly, in both number and degree of importance, except as limited by accuracy or special purpose.
3. *Occupations.* If professional or executive occupations, parenting, trades, or other gainful employment is portrayed, men and women should be represented equally.
4. *Achievements.* Whenever instructional material presents developments in history or current events or achievements in art, science, or any other field, the contributions of women and men should be represented in approximately equal numbers.
5. *Mental and physical activities.* An approximately equal number of male and female characters should be depicted in roles in which they are being mentally and physically active, being creative, solving problems, and experiencing success and failure in those roles.
6. *Traditional and nontraditional activities.* The number of traditional and nontraditional activities engaged in by characters of both sexes should be approximately even.
7. *Emotions.* A range of emotions (e.g., fear, anger, tenderness) should be depicted as being experienced by male and female characters.
8. *Gender-neutral language.* Such general terms as people, men and women, pioneers, and they should be used to avoid the apparent exclusion of females or males.
9. *Parenting activities.* Both sexes should be portrayed in nurturing roles with their families. The responsibility of parenting should be emphasized.

### **Ethnic and Cultural Groups**

*Education Code Sections 51501, 60040(b), and 60044(a)*

**Purpose.** The standards project the cultural diversity of society; instill in each child a sense of pride in his or her heritage; develop a feeling of self-worth related to equality of opportunity; eradicate the roots of prejudice; and thereby encourage the optimal individual development of each student.

**Method.** The standards will be achieved by including a fair representation of majority and minority group characters portrayed in a wide variety of occupations and roles, including cultural and artistic roles.

**Applicability of Standards.** The word group as used in these standards refers generally to one of those named in *Education Code* Section 60040: “Native Americans, African Americans, Mexican Americans, Asian Americans, Pacific Islanders, European Americans..., and members of other ethnic and cultural groups..” Current federal and state reporting guidelines for affirmative action and other similar programs use a different type of classification. However, because any racial, ethnic, or cultural group can be fitted into those listed in the *Education Code*, that code section will remain the basis for implementation of the guidelines.

All the following standards apply to all instructional materials that depict contemporary U.S. or California society or any unidentifiable society. In addition, standards 1, 2, and 3 apply to all materials that depict any contemporary society outside the United States subject to standard 1 under “Special Circumstances” concerning certain perspectives regarding literature, music, art, history, or other cultures; and standard 3 applies concerning certain kinds of limited portrayals.

The standards regarding adverse reflection and proportion of portrayals must be applied in every instance. The other standards require compliance when appropriate.

1. *Adverse reflection.* Descriptions, depictions, labels, or rejoinders that tend to demean, stereotype, or patronize minority groups are prohibited.
2. *Proportion of portrayals.* Instructional materials containing references to, or illustrations of, people must portray accurately, to the extent possible, the roles and contributions of a fair proportion of diverse ethnic groups, especially those groups referenced in the statute (Section 60040[b]).
3. *Customs and lifestyles.* When ethnic or cultural groups are portrayed, portrayals must not depict differences in customs or lifestyles as undesirable and must not reflect adversely on such differences.
4. *Occupations.* If professional or executive roles, trade jobs, or other gainful occupations are portrayed, majority and minority groups should be presented therein in fair proportion.
5. *Socioeconomic settings.* Minority persons should be depicted in the same range of socio- economic settings as are persons of the majority group.
6. *Achievements.* Whenever developments in history or current events, or achievements in art, science, or other fields, are presented, the contributions of

minority persons, particularly prominent minority persons, should be included and discussed when it is historically accurate to do so.

7. *Mental and physical activities.* Majority and minority group characters should be depicted in fair proportion in roles in which they are being mentally and physically active, being creative, solving problems, and experiencing success and failure in those roles.
8. *Traditional and nontraditional activities.* The portrayal of minority characters engaged in activities that have traditionally been viewed as typical of their culture should be balanced by portrayal of such characters engaged in other less traditionally recognized activities.
9. *Root culture.* Depiction of diverse ethnic and cultural groups should not be limited to the groups' root cultures (traditional activities associated with ancestral culture) but, rather, must include such groups in the mainstream of U.S. life and must identify them as Americans.

### **Sexual Orientation and Gender Identity**

*Education Code Sections 50501, 60040(b), and 60044(a)*

**Purpose.** The standards promote the individual development and self-esteem of each student, regardless of sexual orientation or gender identity.

**Method.** The standards will be achieved by avoiding pejorative descriptions of people based upon their sexual orientation or gender identity, and by including references to the contributions of persons of diverse sexual orientations and gender identities.

**Applicability of Standards.** The standard regarding adverse reflection must be applied in every instance. The other standards require compliance when appropriate.

1. *Adverse reflection.* Descriptions, depictions, labels, or rejoinders that tend to demean, stereotype, or patronize individuals because of their sexual orientation or gender identity must not appear.
2. *Achievements.* Whenever developments in history or current events, or achievements in art, science, or other fields, are presented, the contributions of persons of gay, lesbian, or bisexual orientation, or transgender persons, particularly prominent persons, should be included and discussed when it is historically accurate to do so.



3. *Proportion of portrayals.* Instructional materials containing references to, or illustrations of, people must portray accurately, to the extent possible, the roles and contributions of a fair proportion of diverse sexual orientations and gender identities.
4. *Roles.* The presentation of persons of gay, lesbian, or bisexual orientation, or transgender identity, in instructional materials should not be significantly different from the portrayal of people of other sexual orientations and gender identities.
5. *Emotions.* Materials should not convey the impression that persons of gay, lesbian, or bisexual orientation, or transgender identity, are any different from other people in their emotions or their ability to love and be loved.
6. *Socioeconomic settings.* Persons of gay, lesbian, or bisexual orientation, or transgender identity, should be depicted in the same range of socio-economic settings as are people of other sexual orientations and gender identities.

### **Older Persons and the Aging Process**

Approved by the State Board of Education on July 12, 1979

**Purpose.** The standards promote the development of a healthy perception of older people and a concept of the aging process as a natural phenomenon.

**Method.** The standards will be achieved by depicting older persons and their activities and contributions as a vital part of society.

**Applicability of Standards.** The standards regarding adverse reflection and proportion of portrayals must be applied in every instance. The other two standards require compliance when appropriate.

1. *Adverse reflection.* Descriptions, depictions, labels, or rejoinders that tend to demean, stereotype, or patronize older persons are prohibited.
2. *Proportion of portrayals.* Instructional materials containing references to, or illustrations of, usual human activities must include older persons except as limited by accuracy or special purpose.
3. *Roles.* The presentation of older persons in instructional materials should not be significantly different from the portrayal of people of other age groups except as is necessary to identify them as older persons.
4. *Aging process.* When appropriate, the aging process should be pictured as a continuous process spanning an entire lifetime.

## **People with Disabilities**

*Education Code Sections 50501, 60040(b), and 60044(a)*

**Purpose.** The standards promote the development of a perception of people with disabilities that is clear and undistorted, without fear, distrust, loathing, amusement, ridicule, contempt, or pity.

**Method.** The standards will be achieved by depicting the involvement, activities, and contributions of people with disabilities as an integral part of society.

**Applicability of Standards.** The standards regarding adverse reflection and proportion of portrayals must be applied in every instance. The other standards require compliance when appropriate.

Whether a disability is temporary or permanent is of no particular significance to evaluators. In programs for persons with disabilities, a disability is a disability regardless of duration.

1. *Adverse reflection.* Descriptions, depictions, labels, or rejoinders that tend to demean, stereotype, or patronize disabled persons are prohibited.
2. *Proportion of portrayals.* Instructional materials that depict a broad range of human activities must include some representations of people with disabilities except as limited by special purpose or the need for accuracy.
3. *Roles.* The presentation of people with disabilities in instructional materials should not be significantly different from the portrayal of nondisabled persons except as is necessary to identify them as people with disabilities.
4. *Emotions.* Materials should not convey the impression that people with disabilities are any different from other people in their emotions or their ability to love and be loved.
5. *Achievements.* When developments in history or current events or achievements in art, science, or any other field are presented, the contributions of people with disabilities must be included when it is appropriate and historically accurate to do so.

## **Entrepreneur and Labor**

*Education Code Sections 60040(c) and 60044(a)*

**Purpose.** The standards develop in students an unbiased view of the functions of the entrepreneur and of labor in American society.

**Method.** The standards will be achieved by presenting, when it is appropriate to do so, a balanced picture of the roles of entrepreneurs, managers, and labor (as represented by workers and their organizations) in the American free enterprise system.

**Applicability of Standards.** The standard of adverse reflection must be applied in every instance. The other standard requires compliance only when appropriate.

1. *Adverse reflection.* References or labels that tend to demean, stereotype, or patronize any persons engaged in any particular occupation or vocation, whether essentially entrepreneur, management, or labor, are prohibited.
2. *Roles.* Accurate reference should be made to the role and contribution of the entrepreneur and labor in the total development of California and the United States.

## **Religion**

*Education Code Sections 51501, 60044(a) and (b)*

**Purpose.** The standards enable all students to become aware and accepting of religious diversity while being allowed to remain secure in any religious beliefs they may already have.

**Method.** The standards will be achieved by depicting, when appropriate, the diversity of religious beliefs held in the United States and California, as well as in other societies, without displaying bias toward or prejudice against any of those beliefs or religious beliefs in general.

**Applicability of Standards.** The standards are derived to a degree from the United States and the California constitutions and relate closely to the requirements concerning the portrayal of cultural diversity. Compliance is required.

These standards should not be construed to mean that the mere depiction of religious practices constitutes indoctrination. Religious music and art, for example, may be included in instructional materials when appropriate.

1. *Adverse reflection.* No religious belief or practice may be held up to ridicule and no religious group may be portrayed as inferior.
2. *Indoctrination.* Any explanation or description of a religious belief or practice should be presented in a manner that does not encourage or discourage belief or indoctrinate the student in any particular religious belief.
3. *Diversity.* When religion is discussed or depicted, portrayals of contemporary American society should reflect religious diversity.

## **Ecology and the Environment**

### *Education Code Section 60041(a)*

**Purpose.** The standards develop in all students a sense of responsibility for the protection and improvement of the natural environment as much as possible.

**Method.** The standards will be achieved by emphasizing to students, when appropriate, issues related to ecology and the environment and what ordinary citizens can do to contribute to the resolution of those issues.

**Applicability of Standards.** This standard is applicable only when appropriate. Instructional materials may omit discussion or portrayal of the kind required by these standards and still comply with the *Education Code* under this section. The material may be silent on those issues provided such silence does not imply that no problems exist in the environment.

1. *Ecology.* The interdependence of people and their environment should be represented.
2. *Environmental protection.* People's responsibilities for creating and protecting a healthy environment should be emphasized.
3. *Resource use.* Wise use of natural resources should be encouraged. Instructional materials should never depict, encourage, or condone waste of resources except as necessary to illustrate a point.

## **Dangerous Substances**

### *Education Code Section 60041(b)*

**Purpose.** The standards provide all students knowledge of the various uses and misuses of dangerous substances.

**Method.** The standards will be achieved by presenting factual information regarding the effects of dangerous substances.

**Applicability of Standards.** The following standards require compliance when appropriate:

1. *Discouragement of use.* The use of tobacco, alcohol, narcotics, or restricted dangerous drugs, except as prescribed by a physician, must not be glamorized or encouraged by illustrations or text.
2. *Hazards of use.* When references to, or illustrations of, the use of substances are included in other than an incidental manner, such as a passing reference to a

character taking cough medicine or a classic short story referring to “father’s pipe,” the hazards of such use should be depicted or pointed out.

## **Thrift, Fire Prevention, and Humane Treatment of Animals and People**

*Education Code Section 60042*

**Purpose.** The standards instill in all students some basic values: thrift, fire prevention, and humane treatment of animals and people.

**Method.** The standards will be achieved by demonstrating the connection between these values and both everyday and extraordinary occurrences in human living and history.

**Applicability of Standards.** The prohibitions listed below require compliance in all cases; all other mandates apply when appropriate. When making judgments based on these standards, evaluators must consider the vast differences that have existed among different cultures and in acceptable standards of humane behavior during different historical periods.

1. *Waste.* Waste must not be encouraged or glamorized.
2. *Fire hazards.* Unsafe practices and situations that constitute fire hazards must not be depicted (except for clarifying a point), condoned, or encouraged.
3. *Inhumane treatment.* Physical abuse of adults or children or violence against, or other inhumane or depraved treatment of, animals or people must not be depicted (except for clarifying a point), condoned, or encouraged.
4. *Thrift.* The practice of thrift should be encouraged through illustrations or text or both.
5. *Fire prevention.* Methods of fire prevention and fire safety rules in general should be explained and the use of such methods and rules encouraged through illustrations or text or both.
6. *Humane treatment.* Humane treatment of people and animals should be encouraged through illustrations and text. However, inhumane treatment that occurred in history (such as historical references to slavery or the Holocaust) should not be omitted or glossed over but should be depicted when it is appropriate to do so.

## **Declaration of Independence and Constitution of the United States**

*Education Code Section 60043*

These standards need to be met only when students are at a level appropriate to the comprehension of the Declaration of Independence and the U.S. Constitution. In addition, the standards apply only to instructional materials for social science, history, or civics classes.

1. The Declaration of Independence should be presented.
2. The United States Constitution should be included.

## **Brand Names and Corporate Logos**

*Education Code Sections 60048 and 60200*

Guidelines approved by the State Board of Education on January 13, 2000

**Purpose.** The standards prevent unfair exposure of any privately produced product and students' exposure to unnecessary advertising.

**Method.** The standards will be achieved by omitting, whenever possible, illustrations of or references to private producers or their products.

**Applicability of Standards.** The two standards require compliance when appropriate. They also require judgment concerning the educational purpose of the material or the segment of the materials involved; the educational purpose determines how the standards are to be applied.

These standards apply to all instructional materials that depict contemporary American society. In representations of foreign societies, the standards apply to brand names, products, and logos familiar to the average American who has not traveled abroad.

1. **Use of any such depictions.** Instructional materials shall not contain illustrations of any identifiable commercial brand names, products, or corporate or company logos unless such illustrations are necessary to the educational purpose of the instructional material and that purpose cannot be achieved without using such illustrations, or unless such illustrations are incidental to a scene of a general nature (example: Times Square, New York City).
2. **Prominent use of any one depiction.** These exceptions aside, if a brand name, representation, or company logo is illustrated, prominence shall not be given to any one brand or company unless, in turn, such illustration is necessary to the educational purpose of the instructional material and that purpose cannot be achieved without using such illustration (example: a Coca Cola sign in a foreign country, demonstrating the social influence of American corporations abroad).

**Guidelines for Exemptions.** Exemptions to the standards regarding brand names and corporate logos are allowable for the following purposes:

**Historical purposes.** Use of a corporate name or product may provide a historical reference.

Examples: Photograph of “Dewey Defeats Truman” headline with the newspaper’s name in full view; Henry Ford and history of automobiles, manufacturing

**Consumer and career-related education.** A real-world example may contain valuable information that cannot be duplicated with a fictitious scenario. Examples: Analysis of commercials to determine why some advertising campaigns are successful and others are not; analysis of job trends in various fields and corporations

**Research applications.** Students need to know how to conduct valid research to find reliable information.

Examples: The use of the World Book Encyclopedia or Bartlett’s Familiar Quotations as sources; use of information gathering through Internet search engines or other online resources, such as the Encyclopaedia Britannica

**Foreign language instruction.** Prominent commercial products are shown in foreign language materials to provide a better picture of day-to-day lives of people within that culture.

Example: Names of newspapers or products unfamiliar in the U.S. may be mentioned in descriptions of people’s daily lives.

**Necessary sources of information.** The use of information from the best or only source is acceptable and necessary to avoid plagiarism or to maintain the accuracy of a primary-source document.

Example: A 1942 newspaper used for researching articles about World War II contains incidental advertising.

**Copyright protection.** Sources should be listed unobtrusively, such as in small font underneath a photograph or numbered in the back of the book except where copyright protections are necessary. Corporate logos or names should not be repeated elsewhere in the instructional material unless there is a clear educational purpose for doing so.

Examples: A publisher may have the corporate name or logo on the front of the book and on a page that provides copyright information; a publisher may use a corporate name to refer the reader to another document for further information.

**Literature and references to literature.** Literature is generally exempt from a review for social content and includes previously published novels, short stories, poetry, essays, speeches, non-fiction, musical scores, and folktales.

**Web-based resources and television shows.** Those items are not reviewed because the content changes constantly. School districts are responsible for reviewing them to evaluate appropriateness of use.

**Events, locations, sports teams, and people.** International or national events that make a profit but are part of the general culture and do not target advertising solely to students (e.g., the Tour de France, Olympics, Indianapolis 500) may be referenced. Names of sports teams and organizations are allowed. Theme parks and commercial products associated with them may be depicted in instructional materials only if they fit into one of the categories noted above. Individuals and names of fictitious characters that are in the public domain may also be referenced.

Examples: Some photographs of historical people or various cartoon characters are part of the public domain and may be used without violating copyright laws. Use of popular cultural icons that are current would most likely violate copyright laws.

Each of the exceptions noted previously must serve an educational purpose in the instructional materials.

## **Nutrition and Physical Activity**

Approved by the State Board of Education on January 10, 1986 and updated on May 8, 2013.

**Purpose.** The standards accustom students to seeing and dealing with representations of nutritious foods and foster a positive attitude toward physical activity; healthy eating and physical activity are essential to children's health and well-being.

**Method.** The standards will be achieved by emphasizing foods of high nutritional value and regular physical activity when it is appropriate to do so.

**Applicability of Standards.** The standards require compliance when appropriate. Depictions of foods of low nutritional value and of sedentary people are not necessarily



prohibited; materials are to emphasize the importance of healthy eating and regular physical activity.

The relationship of nutrition and physical activity to the overall health and well-being of children is well documented. The prevalence of high-fat, high salt, and sugary foods in students' lives outside of school does not negate the positive effects schools can make. A variety of opportunities to learn about good nutrition and physical activity should be available so that children can attain optimal physical, social and emotional health. Instructional materials should provide appropriate reinforcement in illustration and content. Illustrations should emphasize the selection of a variety of nutritious foods that are low in fat, salt, and sugar and high in fiber content. Foods that contribute little other than empty calories should be minimized.

1. **Variety of opportunities.** A variety of opportunities should be available for students to learn about good nutrition and physical activity so that they attain optimal physical, social and emotional health.
2. **Reinforcement through illustrations and content.** Instructional materials should appropriately reinforce through illustrations and content the benefits of consuming nutritious foods and engaging in regular physical activity. Illustrations of foods should emphasize the selection of a variety of nutritious foods that are low in fat, salt, and sugar and high in fiber. Illustrations of children and youth participating in positive physical activity, using appropriate safety equipment is highly recommended. Depictions of foods that are of low nutritional value should be minimized.

## Appendix

Requirements of the *Education Code* Regarding Social Content

### Portrayal of cultural and racial diversity

60040. When adopting instructional materials for use in the schools, governing boards shall include only instructional materials which, in their determination, accurately portray the cultural and racial diversity of our society, including:

- a) The contributions of both men and women in all types of roles, including professional, vocational, and executive roles.
- b) The role and contributions of Native Americans, African Americans, Mexican Americans, Asian Americans, Pacific Islanders, European Americans, lesbian, gay, bisexual, and transgender Americans, persons with disabilities, and

members of other ethnic and cultural groups to the total development of California and the United States.

- c) The role and contributions of the entrepreneur and labor in the total development of California and the United States.

### **Ecological system; use of tobacco, alcohol, drugs, and other dangerous substances**

60041. When adopting instructional materials for use in schools, governing boards shall include only instructional materials which accurately portray, whenever appropriate:

- a) Man's place in ecological systems and the necessity for the protection of our environment.
- b) The effects on the human system of the use of tobacco, alcohol, narcotics, and restricted dangerous drugs as defined in Section 11032 of the Health and Safety Code, and other dangerous substances.

### **Thrift, fire prevention, and humane treatment of animals and people**

60042. When adopting instructional materials for use in the schools, the governing board shall require such materials as they deem necessary and proper to encourage thrift, fire prevention, and the humane treatment of animals and people.

### **Declaration of Independence and Constitution of the United States**

60043. When adopting instructional materials for use in the schools, the governing board shall require, when appropriate to the comprehension of pupils, that textbooks for social science, history, or civics classes contain the Declaration of Independence and the Constitution of the United States.

### **Prohibited instructional materials**

60044. No instructional materials shall be adopted by any governing board for use in the schools, which in its determination, contains:

- a) Any matter reflecting adversely upon persons on the basis of race or ethnicity, gender, religion, disability, nationality, or sexual orientation, occupation, or because of a characteristic listed in Section 220.

- b) Any sectarian or denominational doctrine or propaganda contrary to law.

### **Commercial brand names, products, or logos**

Education Code Section 60048.

- a) Basic instructional materials, and other instructional materials required to be legally and socially compliant pursuant to sections 60040 to 60047, inclusive, including illustrations, that provide any exposure to a commercial brand name, product, or corporate or company logo in a manner that is inconsistent with guidelines or frameworks adopted by the State Board of Education may not be adopted by a school district governing board.
- b) The governing board of a school district may not adopt basic instructional materials and other instructional materials required to be legally and socially compliant pursuant to sections 60040 to 60047, inclusive, including illustrations, that contain a commercial brand name, product, or corporate or company logo unless the governing board makes a specific finding pursuant to the criteria set forth in paragraph (5) of subdivision (c) of Section 60200 that the use of the commercial brand name, product, or corporate or company logo in the instructional materials is appropriate.
- c) Nothing in this section shall be construed to prohibit the publisher of instructional materials to include whatever corporate name or logo on the instructional materials that is necessary to provide basic information about the publisher, to protect its copyright, or to identify third-party sources of content.
- d) The state board may adopt regulations that provide for other allowable exceptions to this section, as determined by the state board.
- e) The Superintendent of Public Instruction shall develop and the State Board of Education shall adopt guidelines to implement this section.

### **Adoption of List of Basic Instructional Materials; Submission Procedures; Criteria**

60200. The state board shall adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, subject to the following provisions:

- c) In reviewing and adopting or recommending for adoption submitted basic instructional materials, the state board shall use the following criteria, and ensure that, in its judgment, the submitted basic instructional materials meet all of the following criteria:

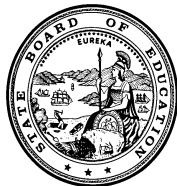
- 5) Do not contain materials, including illustrations, that provide unnecessary exposure to a commercial brand name, product, or corporate or company logo. Materials, including illustrations, that contain a commercial brand name, product, or corporate or company logo may not be used unless the board determines that the use of the commercial brand name, product, or corporate or company logo is appropriate based on one of the following specific findings:
- A) If text, the use of the commercial brand name, product, or corporate or company logo in the instructional materials is necessary for an educational purpose, as defined in the guidelines or frameworks adopted by the state board.
  - B) If an illustration, the appearance of a commercial brand name, product, or corporate or company logo in an illustration in instructional materials is incidental to the general nature of the illustration.



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-01**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

SUBJECT	
<p>Request by two school districts to waive portions of <i>California Code of Regulations</i>, Title 5, Section 11960(a), to allow the charter school attendance to be calculated as if they were regular multi-track schools.</p> <p>Waiver Numbers: Mountain Empire Unified School District 68-1-2013 New Jerusalem Elementary School District 81-1-2013</p>	<p><input checked="" type="checkbox"/> Action</p> <p><input checked="" type="checkbox"/> Consent</p>

#### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends approval with the following conditions:

1. Each charter school will operate two tracks; each track will offer a minimum of 175 days.
2. For each track, each charter school will offer the minimum annual instructional minutes as specified by California *Education Code (EC)* Section 47612.5.
3. No track will have fewer than 55 percent of its school days completed prior to April 15.
4. Average daily attendance (ADA) will be calculated separately for each track by the method set forth in *California Code of Regulations*, Title 5 (5 CCR), Section 11960, and then the resulting attendance figures will be totaled.
5. For each pupil attending more than one track over the course of the fiscal year, including intersessions and supplemental tracks, attendance must be calculated individually by pupil. In that event, the charter school is directed to work with the CDE to determine the appropriate method for configuring individual student's ADA to ensure that each student does not generate more than one ADA.

Because the waiver for Mountain Empire Unified School District is granted for two consecutive years, *EC* 33051(b) will apply, and the district will not be required to reapply annually if information contained in the request remains current. However, Mountain

Empire Unified School District will need to reapply if the San Diego Neighborhood Charter School no longer operates the two tracks requested in the waiver, as the waiver will no longer be current.

The waiver for New Jerusalem Elementary School District is approved for a period of one year and the district will need to reapply if the Manteca Great Valley Academy Charter School continues to operate a multi-track calendar after the period approved in the waiver.

#### **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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At its July 2000 meeting, the State Board of Education (SBE) approved SBE's Policy #00-05 Charter School ADA: Alternative Calculation Method, available at <http://www.cde.ca.gov/re/lr/wr/documents/charterschoolada.doc>, which applies to this waiver request. Many multi-track calendar waivers for charter schools have been approved by the SBE in the past 11 years.

#### **SUMMARY OF KEY ISSUES**

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Section 11960(a) of 5 CCR defines regular ADA in a charter school and establishes the calculation for determining ADA. The calculation divides the total number of pupil-days attended by the total number of days school was actually taught. This section also requires a proportional reduction in a charter school's funding for each day less than 175 days if the school operates fewer than 175 days in any fiscal year. (This requirement has been reduced to 170 days by EC Section 46201.2, through the 2014–15 fiscal year.)

As referenced in the SBE Policy #00-05:

"Attendance" means the attendance of charter school pupils while engaged in educational activities required of them by their charter schools, on days when school is actually taught in their charter schools. "Regular average daily attendance" shall be computed by dividing a charter school's total number of pupil-days of attendance by the number of calendar days on which school was actually taught in the charter school. For purposes of determining a charter school's total number of pupil-days of attendance, no pupil may generate more than one day of attendance in a calendar day.

A multi-track calendar waiver is typically requested by charter schools that operate on a multi-track, year-round education calendar in order to claim the full ADA. In a multi-track calendar, the total number of days that school is taught may exceed 200 days. However, each track of students is only provided instruction for the number of days in a given track, typically 175 days. Therefore, a waiver is necessary for a multi-track charter school to separately calculate ADA in each track, rather than for the school as a whole.

Mountain Empire Unified School District is requesting this waiver on behalf of the San Diego Neighborhood Charter School to operate a multi-track year round education calendar with two tracks. Each track of students will be offered school for a minimum of 175 days of instruction and no track will have fewer than 55 percent of its school days prior to April 15th. The waiver is to allow the charter school to separately calculate ADA in each track (rather than the school as a whole) by method as set forth in Title 5 CCR Section 11960(a), and then total the resulting figures. The reason for the charter school to operate a multi-track calendar is that the target population, comprised mainly of individualized learning students, benefit from a calendar with a staggered start date. This enables the students to commence the school year on a schedule that works well with their existing life circumstances, such as summer and part-time employment, coordination with local school district academic calendars, and meeting the unique academic needs of this student population.

New Jerusalem Elementary School District is requesting this waiver on behalf of the Manteca Great Valley Academy Charter School to operate a multi-track year round education calendar with two tracks: one track for 185 days, and the second track for 180 days. The charter school's home school program will operate under a different school calendar, catering to the nature of the educational design of the program, better serving the parents' and students' needs. The home school will have a later start date with fewer vacation days within the school year. The regular site school will have 185 days of school, and the home school will have 180 days of school.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a), available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.**

**Demographic Information:** See Attachment I

**Authority for Waiver:** EC Section 33050

**Period of request:** See Attachment I

**Local board approval date(s):** See Attachment I

**Public hearing held on date(s):** See Attachment I

**Bargaining unit(s) consulted on date(s):** See Attachment I

**Name of bargaining unit/representative(s) consulted:** See Attachment I

**Position of bargaining unit(s) (choose only one):**

☐ Neutral ☐ Support ☐ Oppose:

**Comments (if appropriate):**



**Public hearing advertised by (choose one or more):** See Attachment I

☐ posting in a newspaper    ☐ posting at each school    ☐ other (specify)

**Advisory committee(s) consulted:** See Attachment I

**Objections raised (choose one):** ☒ None    ☐ Objections are as follows:

**Date(s) consulted:** See Attachment I

**FISCAL ANALYSIS (AS APPROPRIATE)**

There is no statewide fiscal impact of waiver approval.

**ATTACHMENT(S)**

Attachment 1: Summary Table (1 Page)

Attachment 2: Mountain Empire Unified School District General Waiver Request    68-1-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: New Jerusalem Elementary School District General Waiver Request    81-1-2012 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Summary Table

Waiver #	District	Period of Request	Demographic Information	Local Board Approval and Public Hearing Date	Bargaining Unit/ Representatives Consulted and Dates/Position	Advisory Committee and Date Consulted	Public Hearing Advertisement
68-1-2013	Mountain Empire Unified School District for San Diego Neighborhood Charter School	<b>Requested:</b> July 1, 2013 to June 30, 2015  <b>Recommended:</b> July 1, 2013 to June 30, 2015	The charter school has a student population of 128 located in an urban city in San Diego County.	<b>Board Approval:</b> December 11, 2012  <b>Public Hearing</b> December 11, 2012	The charter school does not have a bargaining unit.	Mountain Empire Board of Trustees  December 11, 2012	Notice posted at each school and at the district offices.
81-1-2013	New Jerusalem Elementary School District for Manteca Great Valley Academy and Great Valley Academy Homeschool	<b>Requested:</b> August 27, 2012 to June 5, 2013  <b>Recommended:</b> August 15, 2012 to June 7, 2013	The charter school has a student population of 150 located in a rural city in San Joaquin County.	<b>Board Approval:</b> November 13, 2012  <b>Public Hearing:</b> November 13, 2012	New Jerusalem Educator's Association Council  Consulted: February 20, 2013  Position Neutral	Great Valley Academy, Board of Trustees  August 27, 2012	Notice posted at each school.

<b>California Department of Education WAIVER SUBMISSION - General</b>
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CD Code: 3768213  
Year: 2013

Waiver Number: 68-1-2013

Active

Date In: 1/21/2013 11:04:32 AM

Local Education Agency: Mountain Empire Unified School District  
Address: 3291 Buckman Springs Rd.  
Pine Valley, CA 91962

Start: 7/1/2013

End: 6/30/2015

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Charter School Program  
Ed Code Title: Attendance Accounting for Multi-Track  
Ed Code Section: CCR Title 5 Section 11960  
Ed Code Authority: 33050

Ed Code or CCR to Waive: Enable the San Diego Neighborhood Charter School, a California public charter school, to apply for waiver under CCR-Title 5 Section 11960(a), to allow the charter school attendance to be calculated as a regular multi track school

Outcome Rationale: This waiver is being requested to enable the San Diego Neighborhood Cahrter School to operate a multi-track year round education calendar with two (2) tracks. Each track of students will be offered school for a minimum of 175 days of instruction and no track will have fewer than 55% of its school days prior to April 15th. Therefore, the waiver is requested to separately calculate ADA in each track (rather than the school as a whole) by method set forth in Title 5 CCR Section 11960(a), and then total the resulting figures. This is the same method that is required for non-charter schools that operate on a multi-track year round calendar. The reason for operating a multi-track calendar is that our target population comprised mainly of individualized learning students benefit from a calendar with a staggered start, which enables them to commence the school year on a schedule that works well with their existing life circumstances, such as summer and part-time employment, coordination with local school district academic calendars, and meeting the unique academic needs of this student population.

Student Population: 128

City Type: Urban

Public Hearing Date: 12/11/2012

Public Hearing Advertised: Notice posted at each school and at the district offices.

Local Board Approval Date: 12/11/2012

Committee/Council Reviewed By: None  
Committee/Council Reviewed Date: 12/11/2012  
Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Steve Van Zant

Position: Superintendent

E-mail: svanzant@meusd.net

Telephone: 619-473-9022 x126

Fax: 619-473-9728

<b>California Department of Education</b> <b>WAIVER SUBMISSION - General</b>
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CD Code: 3968627  
Year: 2013

Waiver Number: 81-1-2013

Active

Date In: 1/25/2013 11:49:52 AM

Local Education Agency: New Jerusalem Elementary School District  
Address: 31400 South Koster Rd.  
Tracy, CA 95304

Start: 8/27/2012

End: 6/5/2013

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Charter School Program  
Ed Code Title: Attendance Accounting for Multi-Track  
Ed Code Section: CCR Title 5 Section 11960  
Ed Code Authority: 33050

Ed Code or CCR to Waive: As used in *Education Code* Section 47612, "attendance" means the attendance of charter school pupils while engaged in educational activities required of them by their charter schools, on days when school is actually taught in their charter schools. ["Regular average daily attendance" shall be computed by dividing a charter school's total number of pupil-days of attendance by the number of calendar days on which school was actually taught in the charter school.] For purposes of determining a charter school's total number of pupil-days of attendance, no pupil may generate more than one day of attendance in a calendar day.

Track A: GVA Modesto site school August 15, 2012 through June 7, 2013

Track B: GV Home School August 27, 2012 through June 5, 2013

Outcome Rationale: The Home school program will operate under a different school calendar, catering to the nature of the educational design of the program, better serving the parents' and students' needs. The Home school will have a later start-date with fewer days of vacation within the school year. The site school will have 185 days of school, and the Home school will have 180 days of school. See the attached calendars.

Student Population: 550

City Type: Rural

Public Hearing Date: 11/13/2012

Public Hearing Advertised: Notice posted @ each school

Local Board Approval Date: 11/13/2012

Committee/Council Reviewed By: Great Valley Academy, Board of Trustees  
Committee/Council Reviewed Date: 8/27/2012  
Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

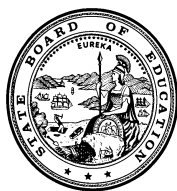
Submitted by: Ms. Lisa McHugh  
Position: CBO  
E-mail: lmchugh@sjcoe.net  
Telephone: 209-740-4699 x1102  
Fax: 209-830-9003



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-02**



# CALIFORNIA STATE BOARD OF EDUCATION

## MAY 2013 AGENDA

### ☒ General Waiver

#### SUBJECT

Request by six school districts to waive California *Education Code* Section 48352(a) and *California Code of Regulations*, Title 5, Section 4701, to remove their school from the Open Enrollment List of “low-achieving schools” for the 2013–14 school year.

Waiver Numbers: Capistrano Unified School District 7-1-2013  
Capistrano Unified School District 9-1-2013  
Capistrano Unified School District 10-1-2013  
Capistrano Unified School District 11-1-2013  
Capistrano Unified School District 12-1-2013  
Capistrano Unified School District 13-1-2013  
Capistrano Unified School District 14-1-2013  
Glendale Unified School District 36-2-2013  
Little Lake City Elementary School District 67-1-2013  
Livermore Valley Joint Unified School District 3-2-2013  
Livermore Valley Joint Unified School District 6-2-2013  
Saddleback Valley Unified School District 53-1-2013  
Saddleback Valley Unified School District 54-1-2013  
Saddleback Valley Unified School District 55-1-2013  
Saddleback Valley Unified School District 56-1-2013  
Tustin Unified School District 65-1-2013

☒ Action

☒ Consent

#### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends approval of sixteen waiver requests from six school districts for schools on the 2013-14 Open Enrollment list (Attachment 2) that meet the criteria for the State Board of Education (SBE) Streamlined Waiver Policy (available at <http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc>). These waivers are recommended for approval on the condition that the local educational agencies (LEAs) granted these waivers must honor any transfer requests pursuant to the Open Enrollment Act. Granting these waivers would allow the schools to have their names removed from the 2013–14 Open Enrollment List as requested. These waivers do not affect the standing of any other schools, as these waivers are specific to the individual schools named in the attached waivers.



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## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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This is the third time the SBE has heard a request from an LEA that meets the SBE streamlined waiver criteria to be removed from the 2013-14 Open Enrollment list. The SBE approved the streamlined waiver request presented at the March 2013 meeting.

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## **SUMMARY OF KEY ISSUES**

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The methodology used in creating the list of 1,000 lowest achieving schools, per the statute, resulted in some higher achieving schools being placed on the list while at the same time some schools with lower APIs were not included on the list. This was primarily due to the statutory provision that an LEA can have no more than 10 percent of its schools on the list.

Identification as a “low-achieving” school can have a significant educational, economic, and political impact on the school community. The label of “low-achieving” does not take into account the API scores for schools whose scores have risen or are maintained closer to the higher levels of achievement. The perception that the school is “low-achieving” may cause unwarranted flight from the school community and may negatively impact fiscal issues.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in the California *Education Code (EC)* 33051(a),** available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.

**Demographic Information:** See individual waivers

**Authority for Waiver:** *EC* Section 33050

**Period of request:** See individual waivers

**Period of recommendation:** July 1, 2013, to June 30, 2014

**Local board approval date(s):** See individual waivers

**Public hearing held on date(s):** See individual waivers

**Bargaining unit(s) consulted on date(s):** See individual waivers

**Public hearing advertised by (choose one or more):** See individual waivers

**Advisory committee(s) consulted:** See individual waivers

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## **FISCAL ANALYSIS (AS APPROPRIATE)**

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There is no statewide fiscal impact of waiver approval or denial.

**ATTACHMENT(S)**

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- Attachment 1: Schools Requesting a General Waiver from the 2013-14 Open Enrollment List (4 pages).
- Attachment 2: Capistrano Unified School District General Waiver Request 7-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 3: Capistrano Unified School District General Waiver Request 9-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 4: Capistrano Unified School District General Waiver Request 10-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 5: Capistrano Unified School District General Waiver Request 11-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 6: Capistrano Unified School District General Waiver Request 12-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 7: Capistrano Unified School District General Waiver Request 13-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 8: Capistrano Unified School District General Waiver Request 14-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 9: Glendale Unified School District General Waiver Request 36-2-2013 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 10: Little Lake City Elementary School District General Waiver Request 67-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 11: Livermore Valley Joint Unified School District General Waiver Request 3-2-2013 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 12: Livermore Valley Joint Unified School District General Waiver Request 6-2-2013 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 13: Saddleback Valley Unified School District General Waiver Request 53-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 14: Saddleback Valley Unified School District General Waiver Request 54-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

- Attachment 15: Saddleback Valley Unified School District General Waiver Request 55-1-2013 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 16: Saddleback Valley Unified School District General Waiver Request 56-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 17: Tustin Unified School District General Waiver Request 65-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

### Schools Requesting a General Waiver from the 2013-14 Open Enrollment List

Waiver #	County District School	2012 District Growth API	2012 School API Growth*			2012 API Target Met?	Met API Growth Targets (3 of last 5 yrs)	Meets SBE Waiver Policy (Yes/No)	Decile, Similar Schools Rank	Current PI Status	Position of Bargaining Unit/Date Consulted	Period of Request	Recommend for Approval (Yes/No)
7-1-2013	Orange Capistrano Unified Crown Valley Elementary	879	Schoolwide	794	No	No	Yes	5, 1	Not in PI	Support 11/28/2012	<b>Requested:</b> 07/01/2013 to 06/30/2014	Yes	
			White	830	Yes								
			SED	678	Yes								
9-1-2013	Orange Capistrano Unified Kinoshita Elementary	879	Schoolwide	762	No	Yes	Yes	4, 7	Year 2	Support 11/28/2012	<b>Requested:</b> 07/01/2013 to 06/30/2014	Yes	
			Hispanic or Latino	761	No								
			SED	758	No								
			English Learners	755	No								
10-1-2013	Orange Capistrano Unified Clarence Lobo Elementary	879	Schoolwide	815	Yes	No	Yes	7, 1	Not in PI	Support 11/28/2012	<b>Requested:</b> 07/01/2013 to 06/30/2014	Yes	
			Hispanic or Latino	715	No								
			White	863	Yes								
			SED	710	No								
			English Learners	649	No								
			SWD	530	No								
11-1-2013	Orange Capistrano Unified Marblehead Elementary	879	Schoolwide	797	No	No	Yes	5, 1	Not in PI	Support 11/28/2012	<b>Requested:</b> 07/01/2013 to 06/30/2014	Yes	
			Hispanic or Latino	644	No								
			White	868	Yes								
			SED	641	No								
			English Learners	620	No								
12-1-2013	Orange Capistrano Unified Richard Henry Dana Elementary	879	Schoolwide	786	No	Yes	Yes	7, 9	Year 1	Support 11/28/2012	<b>Requested:</b> 07/01/2013 to 06/30/2014	Yes	
			Hispanic or Latino	755	No								
			SED	766	No								
			English Learners	747	No								

Waiver #	County District School	2012 District Growth API	2012 School API Growth*	2012 API Target Met?	Met API Growth Targets (3 of last 5 yrs)	Meets SBE Waiver Policy (Yes/No)	Decile, Similar Schools Rank	Current PI Status	Position of Bargaining Unit/Date Consulted	Period of Request	Recommend for Approval (Yes/No)
13-1-2013	Orange Capistrano Unified San Juan Elementary	879	Schoolwide 813 Hispanic or Latino 770 White 939 SED 754 English Learners 745	Yes Yes Yes Yes Yes	Yes	Yes	4, 5	Year 5	Support 11/28/2012	<b>Requested:</b> 07/01/2013 to 06/30/2014  <b>Recommended:</b> 07/01/2013 to 06/30/2014	Yes
14-1-2013	Orange Capistrano Unified Viejo Elementary	879	Schoolwide 753 Hispanic or Latino 733 SED 719 English Learners 711	No No No No	No	Yes	4, 5	Year 3	Support 11/28/2012	<b>Requested:</b> 07/01/2013 to 06/30/2014  <b>Recommended:</b> 07/01/2013 to 06/30/2014	Yes
36-2-2013	Los Angeles Glendale Unified Benjamin Franklin Elementary	858	Schoolwide 802 Hispanic or Latino 743 SED 742 English Learners 717	Yes No No Yes	Yes	Yes	4, 2	Year 2	02/12/2013 Support	<b>Requested:</b> 07/01/2013 to 06/30/2014  <b>Recommended:</b> 07/01/2013 to 06/30/2014	Yes
67-1-2013	Los Angeles Little Lake City Elementary Cresson Elementary	839	Schoolwide 816 Hispanic or Latino 814 SED 798 English Learners 736	Yes Yes No No	No	Yes	6, 4	Year 3	Support 12/17/2012	<b>Requested:</b> 07/01/2013 to 06/30/2014  <b>Recommended:</b> 07/01/2013 to 06/30/2014	Yes
3-2-2013	Alameda Livermore Valley Joint Unified Junction Avenue K-8	847	Schoolwide 764 Hispanic or Latino 729 White 849 SED 725 English Learners 653 SWD 661	No No Yes No No No	No	Yes	4, 9	Year 5	Support 11/28/2012 Support 12/06/2012 Support 12/11/2012	<b>Requested:</b> 07/01/2013 to 06/30/2014  <b>Recommended:</b> 07/01/2013 to 06/30/2014	Yes

Waiver #	County District School	2012 District Growth API	2012 School API Growth*	2012 API Target Met?	Met API Growth Targets (3 of last 5 yrs)	Meets SBE Waiver Policy (Yes/No)	Decile, Similar Schools Rank	Current PI Status	Position of Bargaining Unit/Date Consulted	Period of Request	Recommend for Approval (Yes/No)
6-2-2013	Alameda Livermore Valley Joint Unified Marylin Avenue Elementary	847	Schoolwide 808 Hispanic or Latino 796 SED 799 English Learners 779	Yes Yes Yes Yes	Yes	Yes	3, 8	Year 1	Support 11/28/2012	<b>Requested:</b> 07/01/2013 to 06/30/2014  <b>Recommended:</b> 07/01/2013 to 06/30/2014	Yes
53-1-2013	Orange Saddleback Valley Unified Glen Yermo Elementary	866	Schoolwide 778 Hispanic or Latino 740 White 878 SED 736 English Learners 718	No No Yes No No	No	Yes	5, 3	Year 2	Support 12/10/2012	<b>Requested:</b> 07/01/2012 to 06/29/2014  <b>Recommended:</b> 07/01/2013 to 06/30/2014	Yes
54-1-2013	Orange Saddleback Valley Unified Linda Vista Elementary	866	Schoolwide 807 Hispanic or Latino 751 White 890 SED 751 English Learners 738 SWD 749	Yes No Yes No No No	No	Yes	6, 7	Year 3	Support 12/10/2012	<b>Requested:</b> 07/01/2012 to 06/29/2014  <b>Recommended:</b> 07/01/2013 to 06/30/2014	Yes
55-1-2013	Orange Saddleback Valley Unified Olivewood Elementary	866	Schoolwide 792 Hispanic or Latino 770 SED 765 English Learners 754	Yes Yes Yes Yes	No	Yes	3, 4	Year 4	Support 12/10/2012	<b>Requested:</b> 07/01/2012 to 06/29/2014  <b>Recommended:</b> 07/01/2013 to 06/30/2014	Yes
56-1-2013	Orange Saddleback Valley Unified San Joaquin Elementary	866	Schoolwide 796 Hispanic or Latino 751 White 865 SED 762 English Learners 742 SWD 813	No No Yes No No Yes	No	Yes	5, 5	Year 4	Support 12/10/2012	<b>Requested:</b> 07/01/2012 to 06/29/2014  <b>Recommended:</b> 07/01/2013 to 06/30/2014	Yes

Waiver #	County District School	2012 District Growth API	2012 School API Growth*	2012 API Target Met?	Met API Growth Targets (3 of last 5 yrs)	Meets SBE Waiver Policy (Yes/No)	Decile, Similar Schools Rank	Current PI Status	Position of Bargaining Unit/Date Consulted	Period of Request	Recommend for Approval (Yes/No)
65-1-2013	Orange Tustin Unified C. C. Lambert Elementary	868	Schoolwide 765 Hispanic or Latino 764 SED 764 English Learners 756	No No No No	No	Yes	3, 8	Year 4	Support 11/29/2012	<b>Requested:</b> 07/01/2012 to 06/29/2014  <b>Recommended:</b> 07/01/2013 to 06/30/2014	Yes

\*Only student groups that are numerically significant are included in this column.  
SED – Socioeconomically Disadvantaged  
SWD – Students with Disabilities

Prepared by the California Department of Education  
Revised: 03-15-2013 10:24 AM

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3066464

Waiver Number: 7-1-2013

Active Year: 2013

Date In: 1/8/2013 5:01:01 PM

Local Education Agency: Capistrano Unified School District  
Address: 33122 Valle Rd.  
San Juan Capistrano, CA 92675

Start: 7/1/2013

End: 6/30/2014

Waiver Renewal: Y

Previous Waiver Number: 15-1-2012-W-2

Previous SBE Approval Date: 5/9/2012

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: 48352. For purposes of this article, the following definitions apply:

[ (a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:

(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.

(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:

(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools.

(B) Court, community, or community day schools shall not be included on the list.

(C) Charter schools shall not be included on the list.]

(b) "Parent" means the natural or adoptive parent or guardian of a dependent child.

(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(d) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

Title 5 CCR 4701. Identification of Open Enrollment Schools.

[(a) The State Superintendent of Public Instruction (SSPI) shall annually construct a list of 1,000 schools for the Open Enrollment Act that maintains the same ratio of elementary, middle, and high schools as existed in decile 1 of the 2009 Base Academic Performance Index (API) file and retains only "10 percent" of a local educational agency's (LEA's) schools pursuant to the following methodology:

(1) the list of 1,000 schools shall include 687 elementary schools, 165 middle schools, and 148 high schools;

(2) the list of 1,000 schools shall exclude the following:



- (A) schools that are court, community, or community day schools;
- (B) schools that are charter schools;
- (C) schools that are closed; and
- (D) schools that have fewer than 100 valid test scores.

3) an LEA shall have on the list no more than 10 percent of its total number of schools that are not closed. However, when that total number of schools is not evenly divisible by 10, the 10 percent number of the LEA's schools shall be rounded up to the next whole number; and  
(4) to produce the final list of 1,000 schools, the SSPI shall apply the following process: (A) create a pool of schools: 1. for the purpose of constructing the Open Enrollment Schools List for transfer during the 2010-2011 school year, this pool shall be created by selecting all schools from the 2009 Base API file.]

Outcome Rationale: Approval of this waiver will minimize disruption to the educational program. Staff is committed to providing an outstanding educational program for students. The API score for 2012 is 794, which is six points below the state benchmark of 800. There are 1,900 eligible schools with an API lower than Crown Valley. The Open Enrollment "low achieving" school designation doesn't match the reality of this school.

Student Population: 358

City Type: Suburban

Public Hearing Date: 1/7/2013

Public Hearing Advertised: notice in newspaper; notice posted at each school; notification to community by website

Local Board Approval Date: 1/7/2013

Committee/Council Reviewed By: Crown Valley School Site Council

Committee/Council Reviewed Date: 12/18/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Julie Hatchel

Position: Assistant Superintendent, Education

E-mail: [jhatchel@capousd.org](mailto:jhatchel@capousd.org)

Telephone: 949-234-9229

Fax: 949-489-0467

Bargaining Unit: Date: 11/28/2012

Name: Capistrano Unified Education Association

Representative: Vicki Soderberg

Title: President

Position: Support

Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3066464

Waiver Number: 9-1-2013

Active Year: 2013

Date In: 1/9/2013 8:57:29 AM

Local Education Agency: Capistrano Unified School District  
Address: 33122 Valle Rd.  
San Juan Capistrano, CA 92675

Start: 7/1/2013

End: 6/30/2014

Waiver Renewal: Y

Previous Waiver Number: 24-12-2011-W-04

Previous SBE Approval Date: 3/8/2012

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: 48352. For purposes of this article, the following definitions apply:

[ (a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:

(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.

(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:

(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools.

(B) Court, community, or community day schools shall not be included on the list.

(C) Charter schools shall not be included on the list. ]

(b) "Parent" means the natural or adoptive parent or guardian of a dependent child.

(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(d) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

Title 5 CCR 4701. Identification of Open Enrollment Schools.

[ a) The State Superintendent of Public Instruction (SSPI) shall annually construct a list of 1,000 schools for the Open Enrollment Act that maintains the same ratio of elementary, middle, and high schools as existed in decile 1 of the 2009 Base Academic Performance Index (API) file and retains only "10 percent" of a local educational agency's (LEA's) schools pursuant to the following methodology:

(1) the list of 1,000 schools shall include 687 elementary schools, 165 middle schools, and 148 high schools;

(2) the list of 1,000 schools shall exclude the following:

- (A) schools that are court, community, or community day schools;
- (B) schools that are charter schools;
- (C) schools that are closed; and
- (D) schools that have fewer than 100 valid test scores.

3) an LEA shall have on the list no more than 10 percent of its total number of schools that are not closed. However, when that total number of schools is not evenly divisible by 10, the 10 percent number of the LEA's schools shall be rounded up to the next whole number; and  
(4) to produce the final list of 1,000 schools, the SSPI shall apply the following process: (A) create a pool of schools: 1. for the purpose of constructing the Open Enrollment Schools List for transfer during the 2010-2011 school year, this pool shall be created by selecting all schools from the 2009 Base API file. ]

Outcome Rationale: Approval of this waiver will minimize disruption to the educational program. The percentage of students at Kinoshita who qualify for free and reduced price meals is 96%. Staff is committed to providing an outstanding educational program for students. The API score for 2012 is 762. There are 1,136 eligible schools with an API lower than Kinoshita. The Open Enrollment "low achieving" school designation doesn't match the reality of this school.

Student Population: 672

City Type: Suburban

Public Hearing Date: 1/7/2013

Public Hearing Advertised: notice in newspaper; notice posted at each school; notification to community by website

Local Board Approval Date: 1/7/2013

Committee/Council Reviewed By: Kinoshita Elementary School Site Council

Committee/Council Reviewed Date: 12/19/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Julie Hatchel

Position: Assistant Superintendent, Education

E-mail: jhatchel@capousd.org

Telephone: 949-234-9229

Fax: 949-489-0467

Bargaining Unit: Date: 11/28/2012

Name: Capistrano Unified Education Association

Representative: Vicki Soderberg

Title: President

Position: Support

Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3066464

Waiver Number: 10-1-2013

Active Year: 2013

Date In: 1/9/2013 9:11:34 AM

Local Education Agency: Capistrano Unified School District  
Address: 33122 Valle Rd.  
San Juan Capistrano, CA 92675

Start: 7/1/2013

End: 6/30/2014

Waiver Renewal: N

Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: 48352. For purposes of this article, the following definitions apply:

[ (a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:

(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.

(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:

(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools.

(B) Court, community, or community day schools shall not be included on the list.

(C) Charter schools shall not be included on the list. ]

(b) "Parent" means the natural or adoptive parent or guardian of a dependent child.

(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(d) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

Title 5 CCR 4701. Identification of Open Enrollment Schools.

[ a) The State Superintendent of Public Instruction (SSPI) shall annually construct a list of 1,000 schools for the Open Enrollment Act that maintains the same ratio of elementary, middle, and high schools as existed in decile 1 of the 2009 Base Academic Performance Index (API) file and retains only "10 percent" of a local educational agency's (LEA's) schools pursuant to the following methodology:

(1) the list of 1,000 schools shall include 687 elementary schools, 165 middle schools, and 148 high schools;

(2) the list of 1,000 schools shall exclude the following:

- (A) schools that are court, community, or community day schools;
- (B) schools that are charter schools;
- (C) schools that are closed; and
- (D) schools that have fewer than 100 valid test scores.

3) an LEA shall have on the list no more than 10 percent of its total number of schools that are not closed. However, when that total number of schools is not evenly divisible by 10, the 10 percent number of the LEA's schools shall be rounded up to the next whole number; and  
(4) to produce the final list of 1,000 schools, the SSPI shall apply the following process: (A) create a pool of schools: 1. for the purpose of constructing the Open Enrollment Schools List for transfer during the 2010-2011 school year, this pool shall be created by selecting all schools from the 2009 Base API file. ]

Outcome Rationale: Approval of this waiver will minimize disruption to the educational program. Staff is committed to providing an outstanding educational program for students. The API score for 2012 is 815, which is 15 points above the state benchmark of 800. There are 2,467 eligible schools with an API lower than Lobo. The Open Enrollment "low achieving" school designation doesn't match the reality of this school.

Student Population: 436

City Type: Suburban

Public Hearing Date: 1/7/2013

Public Hearing Advertised: notice in the newspaper; notice posted at each school; notification to community by website

Local Board Approval Date: 1/7/2013

Committee/Council Reviewed By: Clarence Lobo School Site Council

Committee/Council Reviewed Date: 12/19/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Julie Hatchel

Position: Assistant Superintendent, Education

E-mail: [jhatchel@capousd.org](mailto:jhatchel@capousd.org)

Telephone: 949-234-9229

Fax: 949-489-0467

Bargaining Unit: Date: 11/28/2012

Name: Capistrano Unified Education Association

Representative: Vicki Soderberg

Title: President

Position: Support

Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3066464

Waiver Number: 11-1-2013

Active Year: 2013

Date In: 1/9/2013 9:21:15 AM

Local Education Agency: Capistrano Unified School District  
Address: 33122 Valle Rd.  
San Juan Capistrano, CA 92675

Start: 7/1/2013

End: 6/30/2014

Waiver Renewal: Y

Previous Waiver Number: 23-12-2011-W-04

Previous SBE Approval Date: 3/8/2012

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: 48352. For purposes of this article, the following definitions apply:

[ (a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:

(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.

(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:

(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools.

(B) Court, community, or community day schools shall not be included on the list.

(C) Charter schools shall not be included on the list. ]

(b) "Parent" means the natural or adoptive parent or guardian of a dependent child.

(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(d) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

Title 5 CCR 4701. Identification of Open Enrollment Schools.

[ a) The State Superintendent of Public Instruction (SSPI) shall annually construct a list of 1,000 schools for the Open Enrollment Act that maintains the same ratio of elementary, middle, and high schools as existed in decile 1 of the 2009 Base Academic Performance Index (API) file and retains only "10 percent" of a local educational agency's (LEA's) schools pursuant to the following methodology:

(1) the list of 1,000 schools shall include 687 elementary schools, 165 middle schools, and 148 high schools;

(2) the list of 1,000 schools shall exclude the following:

- (A) schools that are court, community, or community day schools;
- (B) schools that are charter schools;
- (C) schools that are closed; and
- (D) schools that have fewer than 100 valid test scores.

3) an LEA shall have on the list no more than 10 percent of its total number of schools that are not closed. However, when that total number of schools is not evenly divisible by 10, the 10 percent number of the LEA's schools shall be rounded up to the next whole number; and  
(4) to produce the final list of 1,000 schools, the SSPI shall apply the following process: (A) create a pool of schools: 1. for the purpose of constructing the Open Enrollment Schools List for transfer during the 2010-2011 school year, this pool shall be created by selecting all schools from the 2009 Base API file. ]

Outcome Rationale: Approval of this waiver will minimize disruption to the educational program. The percentage of students at Marblehead who qualify for free and reduced price meals has risen from 23% to 39% within the past four years. Staff is committed to providing an outstanding educational program for students. The API score for 2012 is 797, which is three points below the state benchmark of 800. There are 1,972 eligible schools with an API lower than Marblehead. The Open Enrollment "low achieving" designation doesn't match the reality of this school.

Student Population: 539

City Type: Suburban

Public Hearing Date: 1/7/2013

Public Hearing Advertised: notice in newspaper; notice posted at each school; notification to community by website

Local Board Approval Date: 1/7/2013

Committee/Council Reviewed By: Marblehead School Site Council

Committee/Council Reviewed Date: 12/3/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Julie Hatchel

Position: Assistant Superintendent, Education

E-mail: [jhatchel@capousd.org](mailto:jhatchel@capousd.org)

Telephone: 949-234-9229

Fax: 949-489-0467

Bargaining Unit: Date: 11/28/2012

Name: Capistrano Unified Education Association

Representative: Vicki Soderberg

Title: President

Position: Support

Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3066464

Waiver Number: 12-1-2013

Active Year: 2013

Date In: 1/9/2013 9:37:34 AM

Local Education Agency: Capistrano Unified School District  
Address: 33122 Valle Rd.  
San Juan Capistrano, CA 92675

Start: 7/1/2013

End: 6/30/2014

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: 48352. For purposes of this article, the following definitions apply:

[ (a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:

(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.

(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:

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(B) Court, community, or community day schools shall not be included on the list.

(C) Charter schools shall not be included on the list. ]

(b) "Parent" means the natural or adoptive parent or guardian of a dependent child.

(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(d) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

Title 5 CCR 4701. Identification of Open Enrollment Schools.

[ a) The State Superintendent of Public Instruction (SSPI) shall annually construct a list of 1,000 schools for the Open Enrollment Act that maintains the same ratio of elementary, middle, and high schools as existed in decile 1 of the 2009 Base Academic Performance Index (API) file and retains only "10 percent" of a local educational agency's (LEA's) schools pursuant to the following methodology:

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(2) the list of 1,000 schools shall exclude the following:



- (A) schools that are court, community, or community day schools;
- (B) schools that are charter schools;
- (C) schools that are closed; and
- (D) schools that have fewer than 100 valid test scores.

3) an LEA shall have on the list no more than 10 percent of its total number of schools that are not closed. However, when that total number of schools is not evenly divisible by 10, the 10 percent number of the LEA's schools shall be rounded up to the next whole number; and  
(4) to produce the final list of 1,000 schools, the SSPI shall apply the following process: (A) create a pool of schools: 1. for the purpose of constructing the Open Enrollment Schools List for transfer during the 2010-2011 school year, this pool shall be created by selecting all schools from the 2009 Base API file. ]

Outcome Rationale: Approval of this waiver will minimize disruption to the educational program. The percentage of students at RH Dana who qualify for free and reduced price meals has risen from 65% to 81% within the past three years. Staff is committed to providing an outstanding educational program for students. The API score for 2012 is 786, which is 14 points below the state benchmark of 800. There are 1,706 eligible schools with an API lower than RH Dana. The Open Enrollment "low achieving" school designation doesn't match the reality of this school.

Student Population: 362

City Type: Suburban

Public Hearing Date: 1/7/2013

Public Hearing Advertised: notice in newspaper; notice posted at each school; notification to community by website

Local Board Approval Date: 1/7/2013

Committee/Council Reviewed By: RH Dana School Site Council

Committee/Council Reviewed Date: 12/6/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Julie Hatchel

Position: Assistant Superintendent, Education

E-mail: [jhatchel@capousd.org](mailto:jhatchel@capousd.org)

Telephone: 949-234-9229

Fax: 949-489-0467

Bargaining Unit: Date: 11/28/2012

Name: Capistrano Unified Education Association

Representative: Vicki Soderberg

Title: President

Position: Support

Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3066464

Waiver Number: 13-1-2013

Active Year: 2013

Date In: 1/9/2013 9:45:44 AM

Local Education Agency: Capistrano Unified School District  
Address: 33122 Valle Rd.  
San Juan Capistrano, CA 92675

Start: 7/1/2013

End: 6/30/2014

Waiver Renewal: Y

Previous Waiver Number: 22-12-2011-W-04

Previous SBE Approval Date: 3/8/2012

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: 48352. For purposes of this article, the following definitions apply:

[ (a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:

(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.

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(B) Court, community, or community day schools shall not be included on the list.

(C) Charter schools shall not be included on the list. ]

(b) "Parent" means the natural or adoptive parent or guardian of a dependent child.

(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(d) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

Title 5 CCR 4701. Identification of Open Enrollment Schools.

[ a) The State Superintendent of Public Instruction (SSPI) shall annually construct a list of 1,000 schools for the Open Enrollment Act that maintains the same ratio of elementary, middle, and high schools as existed in decile 1 of the 2009 Base Academic Performance Index (API) file and retains only "10 percent" of a local educational agency's (LEA's) schools pursuant to the following methodology:

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(2) the list of 1,000 schools shall exclude the following:

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- (B) schools that are charter schools;
- (C) schools that are closed; and
- (D) schools that have fewer than 100 valid test scores.

3) an LEA shall have on the list no more than 10 percent of its total number of schools that are not closed. However, when that total number of schools is not evenly divisible by 10, the 10 percent number of the LEA's schools shall be rounded up to the next whole number; and  
(4) to produce the final list of 1,000 schools, the SSPI shall apply the following process: (A) create a pool of schools: 1. for the purpose of constructing the Open Enrollment Schools List for transfer during the 2010-2011 school year, this pool shall be created by selecting all schools from the 2009 Base API file. ]

Outcome Rationale: Approval of this waiver will minimize disruption to the educational program. The percentage of students at San Juan who qualify for free and reduced price meals is 64%. Staff is committed to providing an outstanding educational program for students. The API score for 2012 is 813, which is 13 points above the state benchmark of 800. There are 2,406 eligible schools with an API lower than San Juan. The Open Enrollment "low achieving" school designation doesn't match the reality of this school.

Student Population: 746

City Type: Suburban

Public Hearing Date: 1/7/2013

Public Hearing Advertised: notice in newspaper; notice posted at each school; notification to community by website

Local Board Approval Date: 1/7/2013

Committee/Council Reviewed By: San Juan School Site Council

Committee/Council Reviewed Date: 12/10/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Julie Hatchel

Position: Assistant Superintendent

E-mail: [jhatchel@capousd.org](mailto:jhatchel@capousd.org)

Telephone: 949-234-9229

Fax: 949-489-0467

Bargaining Unit: Date: 11/28/2012

Name: Capistrano Unified Education Association

Representative: Vicki Soderberg

Title: President

Position: Support

Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3066464

Waiver Number: 14-1-2013

Active Year: 2013

Date In: 1/9/2013 9:54:53 AM

Local Education Agency: Capistrano Unified School District  
Address: 33122 Valle Rd.  
San Juan Capistrano, CA 92675

Start: 7/1/2013

End: 6/30/2014

Waiver Renewal: Y

Previous Waiver Number: 21-12-2011-W-04

Previous SBE Approval Date: 3/8/2012

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: 48352. For purposes of this article, the following definitions apply:

[ (a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:

(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.

(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:

(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools.

(B) Court, community, or community day schools shall not be included on the list.

(C) Charter schools shall not be included on the list. ]

(b) "Parent" means the natural or adoptive parent or guardian of a dependent child.

(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(d) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

Title 5 CCR 4701. Identification of Open Enrollment Schools.

[ a) The State Superintendent of Public Instruction (SSPI) shall annually construct a list of 1,000 schools for the Open Enrollment Act that maintains the same ratio of elementary, middle, and high schools as existed in decile 1 of the 2009 Base Academic Performance Index (API) file and retains only "10 percent" of a local educational agency's (LEA's) schools pursuant to the following methodology:

(1) the list of 1,000 schools shall include 687 elementary schools, 165 middle schools, and 148 high schools;

(2) the list of 1,000 schools shall exclude the following:

- (A) schools that are court, community, or community day schools;
- (B) schools that are charter schools;
- (C) schools that are closed; and
- (D) schools that have fewer than 100 valid test scores.

3) an LEA shall have on the list no more than 10 percent of its total number of schools that are not closed. However, when that total number of schools is not evenly divisible by 10, the 10 percent number of the LEA's schools shall be rounded up to the next whole number; and  
(4) to produce the final list of 1,000 schools, the SSPI shall apply the following process: (A) create a pool of schools: 1. for the purpose of constructing the Open Enrollment Schools List for transfer during the 2010-2011 school year, this pool shall be created by selecting all schools from the 2009 Base API file. ]

Outcome Rationale: Approval of this waiver will minimize disruption to the educational program. The percentage of students at Viejo who qualify for free and reduced price meals has risen from 47% to 72% within the past five years. Staff is committed to providing an outstanding educational program for students. The API score for 2012 is 753. There are 937 eligible schools with an API lower than Viejo. The Open Enrollment "low achieving" school designation doesn't match the reality of this school.

Student Population: 428

City Type: Suburban

Public Hearing Date: 1/7/2013

Public Hearing Advertised: notice in newspaper; notice posted at each school; notification to community by website

Local Board Approval Date: 1/7/2013

Committee/Council Reviewed By: Viejo School Site Council

Committee/Council Reviewed Date: 11/29/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Julie Hatchel

Position: Assistant Superintendent, Education

E-mail: [jhatchel@capousd.org](mailto:jhatchel@capousd.org)

Telephone: 949-234-9229

Fax: 949-489-0467

Bargaining Unit: Date: 11/28/2012

Name: Capistrano Unified Education Association

Representative: Vicki Soderberg

Title: President

Position: Support

Comments:

**California Department of Education  
WAIVER SUBMISSION - General**

CD Code: 1964568

Waiver Number: 36-2-2013

Active Year: 2013

Date In: 2/20/2013 9:48:23 AM

Local Education Agency: Glendale Unified School District  
Address: 223 North Jackson St.  
Glendale, CA 91206

Start: 7/1/2013

End: 6/30/2014

Waiver Renewal: Y

Previous Waiver Number: 68-12-2011-W-04

Previous SBE Approval Date: 3/8/2012

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: 48352. For purposes of this article, the following definitions apply:

(a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:

(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.

(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:

(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools.

And 5 CCR section 4701 Identification of Open Enrollment Schools.

~~a) The State Superintendent of Public Instruction (SSPI) shall annually construct a list of 1,000 schools for the Open Enrollment Act that maintains the same ratio of elementary, middle, and high schools as existed in decile 1 of the 2009 Base Academic Performance Index (API) file and retains only "10 percent" of a local educational agency's (LEA's) schools pursuant to the following methodology:~~

~~(1) the list of 1,000 schools shall include 687 elementary schools, 165 middle schools, and 148 high schools;~~

~~(2) the list of 1,000 schools shall exclude the following:~~

~~(A) schools that are court, community, or community day schools;~~

~~(B) schools that are charter schools;~~

~~(C) schools that are closed; and~~

~~(D) schools that have fewer than 100 valid test scores.~~

~~3) an LEA shall have on the list no more than 10 percent of its total number of schools that are not closed. However, when that total number of schools is not evenly divisible by 10, the 10 percent number of the LEA's schools shall be rounded up to the next whole number; and~~

~~(4) to produce the final list of 1,000 schools, the SSPI shall apply the following process: (A) create a pool of schools: 1. for the purpose of constructing the Open Enrollment Schools List for transfer during the 2010-2011 school year, this pool shall be created by selecting all schools from the 2009 Base API file.~~

Outcome Rationale: Benjamin Franklin Elementary School was identified as an "Open Enrollment" school by the State for the 2013/2014 school year based on the regulations to implement SBX4 4 (Romero). This "Race to the Top" bill allows transfer of students by their parents from "low achieving" schools to schools with higher API scores. The Glendale Unified School District takes the position that the methodology used to define a low achieving school for open enrollment is flawed and punitive. Benjamin Franklin Elementary School has a 2012 Growth API of 802. Since 2000 Franklin has increased its API score by 126 points, was named a California Distinguished School in 2010, and became an International Foreign Language Academy Magnet School in 2010 which made it a school of choice for parents from all schools in the District and many from neighboring Districts. All Franklin parents had to complete an application for their student(s) to attend Franklin and students were selected using a random student selection process. Franklin has growing Dual Immersion Programs in French, German, Italian, and Spanish. This designation by the State of California is dismissive of the hard work of the students and parents and could have negative consequences for the morale of the hard working and dedicated teachers and staff. In 2010 Franklin was a decile 7 school and had a similar school ranking of 10. Franklin and the Glendale Unified School District have worked steadily and consistently to meet the targets established by the State. To be high achieving according to the Academic Performance Index (API), a California Distinguished School, and a "low achieving" school is contradictory. To place Franklin on the same list as an elementary school with an API of 531 sends the wrong message to the Franklin community.

Conclusion: The Benjamin Franklin Elementary School community and the Glendale Unified School District request that the State Board of Education renew the school's waiver and remove the school from the list of "low achieving" open enrollment schools for the 2013/2014 school year.

Student Population: 544

City Type: Urban

Public Hearing Date: 2/19/2013

Public Hearing Advertised: newspaper and posting of notices

Local Board Approval Date: 2/19/2013

Committee/Council Reviewed By: School Site Council

Committee/Council Reviewed Date: 2/14/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Richard Sheehan  
Position: Superintendent  
E-mail: dsheehan@gusd.net  
Telephone: 818-241-3111 x227  
Fax: 818-548-1813

Bargaining Unit: Date: 02/13/2013  
Name: California Schools Employee Association - Glendale  
Representative: Don Jensen  
Title: President  
Position: Support  
Comments:

Bargaining Unit: Date: 02/12/2013  
Name: Glendale Teachers Association  
Representative: Tami Carlson  
Title: President  
Position: Support  
Comments:



**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 1964717

Waiver Number: 67-1-2013

Active Year: 2013

Date In: 1/16/2013 4:21:40 PM

Local Education Agency: Little Lake City Elementary School District  
Address: 10515 South Pioneer Blvd.  
Santa Fe Springs, CA 90670

Start: 7/1/2013

End: 6/30/2014

Waiver Renewal: N

Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: 48352(a) and CCR Title 5 Section 4701

[(a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:

(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.

(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:

(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools. (B) Court, community, or community day schools shall not be included on the list.

(C) Charter schools shall not be included on the list.]

(b) "Parent" means the natural or adoptive parent or guardian of a dependent child.

(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(d) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

Outcome Rationale: Cresson Elementary School has made consistent growth over the past three years and has exceeded the 800 API target each of those years. Their API's were; 810 in 2009-2010, 810 in 2010-2011, and 816 in 2011-2012. In AYP, Cresson has also surpassed the State's average in English Language Arts and mathematics for the last three years. Cresson's sub-groups (Hispanic, ELs, SED and SWD) have also surpassed the state average this past year in ELA. In mathematics, all sub-groups except ELs, surpassed the state average. ELs were slightly below with California at 49.5% and Cresson at 48%. In reviewing the Open Enrollment List, Cresson is one of the few schools over 800 API and in fact has the second highest API on the list. The district strongly believes that Cresson is erroneously included on the list of 1,000

California schools with the lowest APIs. Further, the school's placement on this list creates a false negative impression within the community of Cresson student achievement and the school's overall academic effectiveness. It is for these reasons that we are asking that Cresson Elementary School be removed from the Open Enrollment Schools List.

Student Population: 333

City Type: Urban

Public Hearing Date: 1/15/2013

Public Hearing Advertised: Newspaper January 4 - January 15, Posted at each school site

Local Board Approval Date: 1/15/2013

Committee/Council Reviewed By: Little Lake District Advisory Council, Little Lake District English Learners Advisory Council

Committee/Council Reviewed Date: 1/10/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Maria Soto

Position: Assistant Superintendent, Educational Services

E-mail: maria\_soto@littlelake.k12.ca.us

Telephone: 562-868-8241 x2240

Fax: 562-484-0841

Bargaining Unit: Date: 12/17/2012

Name: Little Lake Educators Association

Representative: Steve Stoble

Title: President

Position: Support

Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0161200

Waiver Number: 3-2-2013

Active Year: 2013

Date In: 2/6/2013 11:37:58 AM

Local Education Agency: Livermore Valley Joint Unified School District  
Address: 685 East Jack London Blvd.  
Livermore, CA 94551

Start: 7/1/2013

End: 6/30/2014

Waiver Renewal: N

Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: 48350-48361

[(a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:

(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.

(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:

(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools.

(B) Court, community, or community day schools shall not be included on the list.

(C) Charter schools shall not be included on the list.]

Outcome Rationale: LVJUSD is requesting that Junction Avenue K-8 be removed from the 2013-2014 Open Enrollment – Low Achieving Schools List. This request is supported by our District Advisory Committee, District English Language Advisory Committee, Junction School Site Council and all three district bargaining units.

After the strategic combining of a K-5 school with a neighboring middle school, Junction Avenue K-8 opened its doors in the fall of 2009. Parents, school and district staff spent the previous year collaborating, researching, planning, problem solving and working together to create a K-8 school that would meet the educational and social emotional needs of the students in this low socio-economic neighborhood. In the past three years the community has embraced the school, supporting mentoring and tutoring programs, expanding enrichment and intervention opportunities for students after school and maintaining a safe environment. The school, with a most recent Similar School Rank of 9, has become a point of pride for parents and the community. The Dual Immersion Program is currently attracting students from throughout the school district. The "1000 Low Performing Schools" designation will only serve as a distraction

to the current focus on improving and enhancing the current academic program. The district, community, parents and staff of Junction Avenue K-8 are committed to providing high-quality education and closing the achievement gap.

Finally, Livermore Valley Joint Unified School District honors all requests from parents to attend schools within our district, on a space available basis, and schools in our neighboring districts. LVJUSD parents currently are able to transfer their children to Junction K-8 from other schools or transfer their children out of the school. The "Open Enrollment Act" does not add any new transfer options for our students, it serves only to distract from the focused efforts of the school community.

Student Population: 811

City Type: Suburban

Public Hearing Date: 1/8/2013

Public Hearing Advertised: Local newspapers, school sites

Local Board Approval Date: 1/8/2013

Committee/Council Reviewed By: District Advisory Council, District English Learner Advisory Council, Junction School Site Council

Committee/Council Reviewed Date: 11/30/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Cindy Alba

Position: Assistant Superintendent

E-mail: calba@lvjUSD.k12.ca.us

Telephone: 925-606-3224

Fax: 925-606-3329

Bargaining Unit: Date: 12/06/2012

Name: California State Employees Association

Representative: Yvonne Pele

Title: President

Position: Support

Comments:

Bargaining Unit: Date: 11/28/2012

Name: Livermore Education Association

Representative: Shelly Fields

Title: President

Position: Support

Comments:

Bargaining Unit: Date: 12/11/2012  
Name: Service Employees International Union  
Representative: Darrel Cota  
Title: President  
Position: Support  
Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0161200

Waiver Number: 6-2-2013

Active Year: 2013

Date In: 2/7/2013 9:10:41 AM

Local Education Agency: Livermore Valley Joint Unified School District  
Address: 685 East Jack London Blvd.  
Livermore, CA 94551

Start: 7/1/2013

End: 6/30/2014

Waiver Renewal: N

Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: *Education Code* Section 48350-48361

[(a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:

(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.

(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:

(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools.

(B) Court, community, or community day schools shall not be included on the list.

(C) Charter schools shall not be included on the list.]

Outcome Rationale: LVJUSD is requesting the removal of Marylin Avenue Elementary from the 2013-2014 Open Enrollment – Low Achieving Schools List. This designation does not fit Marylin Avenue which is a model of successful school reform while serving a challenging student population. Over the past several years, the staff has embraced 90-90-90 Schools Research, consulted with Doug Reeves' Leadership and Learning Center, worked with Education for the Future and implemented structures and strategies to increase student achievement and close the achievement gap. The school is a model for the effective implementation of Professional Learning Communities, Data Teams and Instructional Rounds which have resulted in a 43 point API gain last year and 163 points since 2005. Marylin Avenue has surpassed the State target of 800 to reach 808. Marylin Avenue is also closing the achievement gap. For all but one significant subgroup, the gap is narrowed to no more than 12 points. In addition, all significant subgroups are performing above the API target for AYP. Marylin Avenue's reform has been a noted successful case study in three publications. The first

book Data, Data, Everywhere, by Victoria Bernhardt, published in 2009 is about how Marylin Avenue used multiple sources of data for continuous school improvement. The second book, Response to Intervention and Continuous School Improvement, written by Victoria Bernhardt and Connie Hebert and published in 2011 is about how Marylin uses data to design, implement, and evaluate a school-wide prevention system. In addition, a chapter in the book Data Teams - Success Stories, by Kristin Anderson noted the success using the Data Team process for improved student achievement.

The district, community, parents and staff of Marylin Avenue are committed to providing high-quality education and closing the achievement gap. Marylin Avenues test scores are demonstrating the results of that commitment. Staff should not have to be distracted from their efforts to explain to parents and families the meaning of this designation in light of the incredible academic gains over the past years. As indicated at the recent School Site Council meeting, the designation will only confuse the Marylin families.

Finally, Livermore Valley Joint Unified School District honors all requests from parents to attend schools within our district on a space available basis, and schools in our neighboring districts. Parents currently are able to transfer their children to Marylin Avenue from other schools or transfer their children out of the school. The "Open Enrollment Act" does not add any new transfer options for our students, it serves only to distract from the focused efforts of the school community.

Student Population: 484

City Type: Suburban

Public Hearing Date: 1/8/2013

Public Hearing Advertised: Local Newspapers, posted at schools

Local Board Approval Date: 1/8/2013

Committee/Council Reviewed By: District Advisory Council, District English Learner Advisory Council, Marylin School Site Council

Committee/Council Reviewed Date: 11/30/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Cindy Alba

Position: Assistant Superintendent

E-mail: calba@lvjUSD.k12.ca.us

Telephone: 925-606-3224

Fax: 925-606-3329

Bargaining Unit: Date: 12/06/2012  
Name: California State Employees Association  
Representative: Yvonne Pele  
Title: President  
Position: Support  
Comments:

Bargaining Unit: Date: 11/28/2012  
Name: Livermore Education Association  
Representative: Shelly Fields  
Title: President  
Position: Support  
Comments:

Bargaining Unit: Date: 12/11/2012  
Name: Service Employees International Union  
Representative: Darrel Cota  
Title: President  
Position: Support  
Comments:



**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3073635

Waiver Number: 53-1-2013

Active Year: 2013

Date In: 1/11/2013 11:28:52 AM

Local Education Agency: Saddleback Valley Unified School District  
Address: 25631 Peter A. Hartman Way  
Mission Viejo, CA 92691

Start: 7/1/2012

End: 6/29/2014

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: *Education Code* 48352. For purposes of this article, the following definitions apply:

[ (a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:]

[ (1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.]

[ (2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:]

[ (A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools. (B) Court, community, or community day schools shall not be included on the list. (C) Charter schools shall not be included on the list. ]

(b) "Parent" means the natural or adoptive parent or guardian of a dependent child.?

(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(d) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

Title 5 CCR 4701. Identification of Open Enrollment Schools.

[ (a) The State Superintendent of Public Instruction (SSPI) shall annually construct a list of 1,000 schools for the Open Enrollment Act that maintains the same ratio of elementary, middle, and high schools as existed in decile 1 of the 2009 Base Academic Performance Index (API) file and retains only "10 percent" of a local educational agency's (LEA's) schools pursuant to the following methodology: ]

[ (1) the list of 1,000 schools shall include 687 elementary schools, 165 middle schools, and 148 high schools; ]

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[ (A) schools that are court, community, or community day schools; ]  
[ (B) schools that are charter schools; ]  
[ (C) schools that are closed; and ]  
[ (D) schools that have fewer than 100 valid test scores. ]  
[ (3) an LEA shall have on the list no more than 10 percent of its total number of schools that are not closed. However, when that total number of schools is not evenly divisible by 10, the 10 percent number of the LEA's schools shall be rounded up to the next whole number; and ]  
[(4) to produce the final list of 1,000 schools, the SSPI shall apply the following process: (A) create a pool of schools: 1. for the purpose of constructing the Open Enrollment Schools List for transfer during the 2010-2011 school year, this pool shall be created by selecting all schools from the 2009 Base API file. ]

Outcome Rationale: Glen Yermo is a high achieving elementary school that has shown a pattern of improvement that contraindicates placement of the 2012- 2013 list of 1,000 Open Enrollment schools. The school came very close to the state target of 800 by achieving a 2012 API score of 778. The white subgroup showed API growth of 15 points. In 2012, the school met API criteria, and met 12 of 21 AYP Criteria. Glen Yermo is a Title I school in Year 2 of Program Improvement. This pattern of academic achievement is not consistent with the Open Enrollment designation of Glen Yermo Elementary School.

Student Population: 360

City Type: Suburban

Public Hearing Date: 12/11/2012

Public Hearing Advertised: Local Paper (OC Register); SVUSD Website; Notice of Public Hearing at multiple school sites

Local Board Approval Date: 12/11/2012

Committee/Council Reviewed By: Glen Yermo School Site Council

Committee/Council Reviewed Date: 11/29/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Kathy Clark

Position: Program Specialist III, Special Projects Office

E-mail: Kathy.Clark@svusd.org

Telephone: 949-580-3332

Fax: 949-837-3225

Bargaining Unit: Date: 12/10/2012

Name: Saddleback Valley Educators Association

Representative: Daniel Moon

Title: President

Position: Support

Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3073635

Waiver Number: 54-1-2013

Active Year: 2013

Date In: 1/11/2013 11:38:51 AM

Local Education Agency: Saddleback Valley Unified School District  
Address: 25631 Peter A. Hartman Way  
Mission Viejo, CA 92691

Start: 7/1/2012

End: 6/29/2014

Waiver Renewal: N

Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: *Education Code* 48352. For purposes of this article, the following definitions apply:

[ (a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:]

[ (1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.]

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(b) "Parent" means the natural or adoptive parent or guardian of a dependent child.?

(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

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[ (a) The State Superintendent of Public Instruction (SSPI) shall annually construct a list of 1,000 schools for the Open Enrollment Act that maintains the same ratio of elementary, middle, and high schools as existed in decile 1 of the 2009 Base Academic Performance Index (API) file and retains only "10 percent" of a local educational agency's (LEA's) schools pursuant to the following methodology: ]

[ (1) the list of 1,000 schools shall include 687 elementary schools, 165 middle schools, and 148 high schools; ]

[ (2) the list of 1,000 schools shall exclude the following: ]

[ (A) schools that are court, community, or community day schools; ]  
[ (B) schools that are charter schools; ]  
[ (C) schools that are closed; and ]  
[ (D) schools that have fewer than 100 valid test scores. ]  
[ (3) an LEA shall have on the list no more than 10 percent of its total number of schools that are not closed. However, when that total number of schools is not evenly divisible by 10, the 10 percent number of the LEA's schools shall be rounded up to the next whole number; and ]  
[(4) to produce the final list of 1,000 schools, the SSPI shall apply the following process: (A) create a pool of schools: 1. for the purpose of constructing the Open Enrollment Schools List for transfer during the 2010-2011 school year, this pool shall be created by selecting all schools from the 2009 Base API file. ]

Outcome Rationale: Linda Vista is a high achieving elementary school that has shown a pattern of improvement that contraindicates placement on the 2012 – 2013 list of 1,000 Open Enrollment schools. The school exceeded the state target of 800 by achieving a 2012 API score of 806. In 2012, the school met the schoolwide growth target, and achieved a Similar Schools Rank of 7. Linda Vista is a Title I school in Year 3 of Program Improvement that met 14 of 25 AYP Criteria in 2012. This pattern of academic progress is not consistent with the Open Enrollment designation of Linda Vista Elementary School.

Student Population: 504

City Type: Suburban

Public Hearing Date: 12/11/2012

Public Hearing Advertised: Local Paper (OC Register); SVUSD Website; Notice of Public Hearing at multiple school sites

Local Board Approval Date: 12/11/2012

Committee/Council Reviewed By: Linda Vista School Site Council

Committee/Council Reviewed Date: 11/27/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Kathy Clark

Position: Program Specialist III, Special Projects Office

E-mail: Kathy.Clark@svusd.org

Telephone: 949-580-3332

Fax: 949-837-3225

Bargaining Unit: Date: 12/10/2012

Name: Saddleback Valley Educators Association

Representative: Daniel Moon

Title: President

Position: Support

Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3073635

Waiver Number: 55-1-2013

Active Year: 2013

Date In: 1/11/2013 11:49:04 AM

Local Education Agency: Saddleback Valley Unified School District  
Address: 25631 Peter A. Hartman Way  
Mission Viejo, CA 92691

Start: 7/1/2012

End: 6/29/2014

Waiver Renewal: Y

Previous Waiver Number: 68-12-2010

Previous SBE Approval Date: 4/21/2011

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: *Education Code* 48352. For purposes of this article, the following definitions apply:

[ (a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:]

[ (1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.]

[ (2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:]

[ (A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools. (B) Court, community, or community day schools shall not be included on the list. (C) Charter schools shall not be included on the list. ]

(b) "Parent" means the natural or adoptive parent or guardian of a dependent child.?

(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(d) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

Title 5 CCR 4701. Identification of Open Enrollment Schools.

[ (a) The State Superintendent of Public Instruction (SSPI) shall annually construct a list of 1,000 schools for the Open Enrollment Act that maintains the same ratio of elementary, middle, and high schools as existed in decile 1 of the 2009 Base Academic Performance Index (API) file and retains only "10 percent" of a local educational agency's (LEA's) schools pursuant to the following methodology: ]

[ (1) the list of 1,000 schools shall include 687 elementary schools, 165 middle schools, and 148 high schools; ]

[ (2) the list of 1,000 schools shall exclude the following: ]

[ (A) schools that are court, community, or community day schools; ]  
[ (B) schools that are charter schools; ]  
[ (C) schools that are closed; and ]  
[ (D) schools that have fewer than 100 valid test scores. ]  
[ (3) an LEA shall have on the list no more than 10 percent of its total number of schools that are not closed. However, when that total number of schools is not evenly divisible by 10, the 10 percent number of the LEA's schools shall be rounded up to the next whole number; and ]  
[(4) to produce the final list of 1,000 schools, the SSPI shall apply the following process: (A) create a pool of schools: 1. for the purpose of constructing the Open Enrollment Schools List for transfer during the 2010-2011 school year, this pool shall be created by selecting all schools from the 2009 Base API file. ]

Outcome Rationale: Olivewood is a high achieving elementary school that has shown a pattern of improvement that contraindicates placement on the 2012 – 2013 list of 1,000 Open Enrollment schools. The school came very close to the state target of 800 by achieving a 2012 API score of 792, an increase of 22 points. In 2012, the Latino subgroup showed API growth of 16 points, the English Learner subgroup showed API growth of 11 points, and the Socioeconomically Disadvantaged subgroup showed API growth of 9 points. AYP was met schoolwide and by all subgroups. Olivewood is a Title I school in Year 4 of Program Improvement that met all AYP Criteria in 2012. This pattern of steady improvement and progress is not consistent with the Open Enrollment designation of Olivewood Elementary School.

Student Population: 520

City Type: Suburban

Public Hearing Date: 12/11/2012

Public Hearing Advertised: Local Paper (OC Register); SVUSD Website; Notice of Public Hearing at multiple school sites

Local Board Approval Date: 12/11/2012

Committee/Council Reviewed By: Olivewood School Site Council

Committee/Council Reviewed Date: 11/13/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Kathy Clark

Position: Program Specialist III, Special Projects Office

E-mail: Kathy.Clark@svusd.org

Telephone: 949-580-3332

Fax: 949-837-3225

Bargaining Unit: Date: 12/10/2012  
Name: Saddleback Valley Educators Association  
Representative: Daniel Moon  
Title: President  
Position: Support  
Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3073635

Waiver Number: 56-1-2013

Active Year: 2013

Date In: 1/11/2013 11:56:54 AM

Local Education Agency: Saddleback Valley Unified School District  
Address: 25631 Peter A. Hartman Way  
Mission Viejo, CA 92691

Start: 7/1/2012

End: 6/29/2014

Waiver Renewal: Y

Previous Waiver Number: 69-12-2010

Previous SBE Approval Date: 4/21/2011

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: *Education Code* 48352. For purposes of this article, the following definitions apply:

[ (a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:]

[ (1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.]

[ (2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:]

[ (A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools. (B) Court, community, or community day schools shall not be included on the list. (C) Charter schools shall not be included on the list. ]

(b) "Parent" means the natural or adoptive parent or guardian of a dependent child.?

(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(d) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

Title 5 CCR 4701. Identification of Open Enrollment Schools.

[ (a) The State Superintendent of Public Instruction (SSPI) shall annually construct a list of 1,000 schools for the Open Enrollment Act that maintains the same ratio of elementary, middle, and high schools as existed in decile 1 of the 2009 Base Academic Performance Index (API) file and retains only "10 percent" of a local educational agency's (LEA's) schools pursuant to the following methodology: ]

[ (1) the list of 1,000 schools shall include 687 elementary schools, 165 middle schools, and 148 high schools; ]

[ (2) the list of 1,000 schools shall exclude the following: ]



[ (A) schools that are court, community, or community day schools; ]  
[ (B) schools that are charter schools; ]  
[ (C) schools that are closed; and ]  
[ (D) schools that have fewer than 100 valid test scores. ]  
[ (3) an LEA shall have on the list no more than 10 percent of its total number of schools that are not closed. However, when that total number of schools is not evenly divisible by 10, the 10 percent number of the LEA's schools shall be rounded up to the next whole number; and ]  
[(4) to produce the final list of 1,000 schools, the SSPI shall apply the following process: (A) create a pool of schools: 1. for the purpose of constructing the Open Enrollment Schools List for transfer during the 2010-2011 school year, this pool shall be created by selecting all schools from the 2009 Base API file. ]

Outcome Rationale: San Joaquin Elementary School is a high achieving elementary school that has shown a pattern of improvement that contraindicates placement on the list of 1,000 Open Enrollment schools for the 2012 – 2013 school year. The school achieved a 2012 API score of 796. In 2012 the white subgroup showed an API growth of 5 points, the EL subgroup a growth of 2 points, and the Students With Disabilities subgroup an API growth of 35 points. San Joaquin is a Title I school in Year 4 of Program Improvement that met 20 of 25 AYP Criteria in 2012. This pattern of steady improvement and progress is not consistent with the Open Enrollment designation of San Joaquin Elementary School.

Student Population: 540

City Type: Suburban

Public Hearing Date: 12/11/2012

Public Hearing Advertised: Local Paper (OC Register); SVUSD Website; Notice of Public Hearing at multiple school sites

Local Board Approval Date: 12/11/2012

Committee/Council Reviewed By: San Joaquin School Site Council

Committee/Council Reviewed Date: 11/9/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Kathy Clark

Position: Program Specialist III, Special Projects Office

E-mail: Kathy.Clark@svusd.org

Telephone: 949-580-3332

Fax: 949-837-3225

Bargaining Unit: Date: 12/10/2012

Name: Saddleback Valley Educators Association

Representative: Daniel Moon Title: President

Position: Support

Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3073643

Waiver Number: 65-1-2013

Active Year: 2013

Date In: 1/16/2013 8:12:38 AM

Local Education Agency: Tustin Unified School District  
Address: 300 South C St.  
Tustin, CA 92780

Start: 7/1/2012

End: 6/30/2013

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: *Education Code 48352.*

[(a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:

(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.

(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:

(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools. (B) Court, community, or community day schools shall not be included on the list.

(C) Charter schools shall not be included on the list.]

(b) "Parent" means the natural or adoptive parent or guardian of a dependent child.

(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(d) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

Outcome Rationale: C.C. Lambert Elementary School is a Title I school in the Tustin Unified School District. The school has shown overall improvement of 124 API points in the past 10 years. Last year the number of students proficient or advanced in English Languages Arts grew by over 6 percentage points and met AYP Safe Harbor goals in this area. C.C. Lambert Elementary School has undergone many changes in academic structure with research-based professional development in an effort to continue to improve student performance.

For these reasons, the C.C. Lambert Elementary staff, School Site Council, and English Learner Advisory Committee voted unanimously to submit a waiver request to have C. C. Lambert

Elementary school removed from the Open Enrollment List. The school leadership team and staff of highly qualified teachers expect the progress of the school to continue due to an effective English Language Development program, the implementation of strong initial instruction, and extra credentialed teachers hired to deliver targeted intervention designed to meet the individual needs of students. The focus this year is to increase depth of knowledge and gains are expected in both ELA and math.

C.C. Lambert Elementary is not one of the state's 1,000 lowest performing schools, but appears on the list due to the artificial 10% cap placed on districts. We ask that you approve the waiver request to remove C.C. Lambert Elementary from the Open Enrollment list.

Student Population: 618

City Type: Small

Public Hearing Date: 12/10/2012

Public Hearing Advertised: Notice posted at school, City of Tustin Public Library, TUSD Administration Office, and Tustin District IRC

Local Board Approval Date: 12/10/2012

Committee/Council Reviewed By: English Learner Advisory Committee, School Site Council, District English Learner Advisory Committee

Committee/Council Reviewed Date: 1/15/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Kathie Nielsen

Position: Chief Academic Officer

E-mail: knielsen@tustin.k12.ca.us

Telephone: 714-730-7301 x309

Fax: 714-838-6396

Bargaining Unit: Date: 11/29/2012

Name: California Schools Employers Association (CSEA)

Representative: Irma Dicochea

Title: CSEA Interim President

Position: Support

Comments:

Bargaining Unit: Date: 11/29/2012

Name: Tustin Educators Association (TEA)

Representative: T.J. Prendergast

Title: TEA President

Position: Support

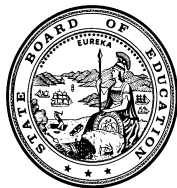
Comments:



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-03**



## CALIFORNIA STATE BOARD OF EDUCATION

### MARCH 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by **Fremont Unified School District** to waive portions of California *Education Code* Section 51222(a), related to the statutory minimum requirement of 400 minutes of physical education each ten school days for students in grades nine through twelve in order to implement a block schedule at **Kennedy High School**.

Waiver Number: 82-1-2013

☒ Action

☒ Consent

##### RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

California *Education Code* (EC) Section 33051(b) will not apply, and the district will be required to reapply in 2014 to continue the waiver.

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

State Board of Education (SBE) Waiver Policy #99–03, Physical Education (PE) Requirements for Block Schedules, which was last revised in July 2006, establishes criteria for granting waivers related to PE instructional minutes for the purpose of implementing a block schedule. This policy, #99–03, is available for viewing at <http://www.cde.ca.gov/re/lr/wr/documents/pepolicy.doc>.

Schools began implementing block schedules, sometimes with disregard for the statutory requirements for PE instructional minutes, in the 1980s. Several types of these block schedules incorporate PE instruction on a limited basis and do not meet the statutory requirement of 400 minutes every 10 school days. A committee including PE experts, district staff, SBE members, and California Department of Education staff developed a recommendation for a waiver policy. This group did not feel that they could ask high schools in the state to stop doing block scheduling, so flexibility was sought, and a waiver policy was created.

##### SUMMARY OF KEY ISSUES

*Education Code* Section 51222(a) established requirements for minimum instructional minutes of PE, 400 minutes every ten school days for pupils in grades seven through twelve. Kennedy High School (HS) has implemented a block schedule in grades nine through twelve that does not provide each student with PE instruction for a minimum of 400 minutes every ten school days.

Students at this school are enrolled in PE for only 18 weeks of the school year, receiving instruction for 90 minutes per school day. This means that they teach PE 450 minutes per school week (or 900 minutes each ten days). Therefore, the actual time that Kennedy HS students are enrolled in PE meets the minimum minute requirements, if added on an annual basis.

<b>Sample Student Schedules</b>	<b>Fall Term</b> 18 Consecutive Weeks	<b>Spring Term</b> 18 Consecutive Weeks
Student A	Minutes per week of PE instruction = 0	Minutes per week of PE Instruction = 450
Student B	Minutes per week of PE Instruction = 450	Minutes per week of PE instruction =0

The Department has worked closely with Fremont Unified School District to ensure that all criteria have been met to a high degree of completion. The district has provided evidence indicating they have met the criteria for this waiver as follows:

1. The PE instructional program at Kennedy HS complies with federal and state statutes and regulations related to PE pertaining to minimum minute requirements; instruction is based on PE content standards; and instruction aligned with the *Physical Education Framework for California Public Schools* (sequential, articulated, and age-appropriate instruction).
2. The district has developed a PE professional development plan for teachers who deliver instruction in PE at that school.
3. The students are enrolled in courses of PE a minimum of 18 weeks in 80–90 minute daily class periods during the regular school year.
4. The district described a method by which it will monitor students' maintenance of a personal physical activity program during the weeks a student is not participating in a PE course at that school. The monitoring program includes: student accountability for their participation in physical activity; guidance for students in using the principles of exercise to design and complete their physical activity program; specific information regarding the design; and delivery of the monitoring program.
5. The PE program complies with *California Code of Regulations*, Title 5, Article 3.1, Section 10060.
6. All eligible students are prepared for and participate in the physical performance testing as specified in *EC* Section 60800.
7. Alternate day scheduling for PE rather than alternate term scheduling has been thoroughly investigated by the district.

When the district is identified for a Federal Program Monitoring (FPM) review by the CDE, Kennedy HS shall have PE reviewed as a part of the district's FPM process.

As required by SBE Waiver Policy #99-03, PE Requirements for Block Schedules, the 2011-12 California Physical Fitness Test (PFT) data was reviewed and indicates that 25.1 percent of Kennedy HS grade nine students meet all six out of six fitness standards on each of the PFT items. This indicates a 12.3 percentage point decline from their 2010-11 results.

The Department recommends approval as this waiver request meets all of the conditions of the SBE Waiver Policy #99-03. EC Section 33051(b) will not apply, and the district will be required to reapply in 2013 to continue the waiver.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a),** available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.

**Demographic Information:** Kennedy HS has a student population of 2,255. The district is located in a suburban area of San Diego County.

**Authority for Waiver:** EC Section 33050

**Period of request:** September 1, 2012, to June 30, 2014 (The district has requested a time period of less than the two years less 1 day normally granted to schools receiving Block Scheduling waivers)

**Period recommended:** Recommend September 1, 2012, to August 31, 2013, for reapplication after one year.

**Local board approval Local date(s):** January 23, 2013

**Public hearing held on date(s):** January 23, 2013

**Bargaining unit(s) consulted on date(s):** September 6, 2012

**Name of bargaining unit/representative(s) consulted:** Fremont Unified Teachers Association, Brannin Dorsey, President

**Position of bargaining unit(s) (choose only one):**

☐ Neutral ☒ Support ☐ Oppose:

**Public hearing advertised by (choose one or more):**

☒ posting in a newspaper ☒ posting at each school ☒ other (specify) Web

**Advisory committee(s) consulted:** Kennedy High School Site Council, November 5, 2012

(After consulting with the district, this information was revised from the Fremont Unified District Board of Education to the council named above because of an error in the information provided in the online submission).

**Objections raised (choose one):** ☒ None ☐ Objections are as follows:

**Date(s) consulted:** November 5, 2012

**FISCAL ANALYSIS (AS APPROPRIATE)**

There is no statewide fiscal impact of waiver approval or denial.

**ATTACHMENT(S)**

Attachment 1: General Waiver Request (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)



**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0161176  
Year: 2013

Waiver Number: 82-1-2013

Active

Date In: 1/25/2013 1:26:32 PM

Local Education Agency: Fremont Unified School District  
Address: 4210 Technology Dr.  
Fremont, CA 94537

Start: 9/1/2012

End: 6/30/2014

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Physical Education Program

Ed Code Title: Block Schedules

Ed Code Section: 51222(a)

Ed Code Authority: 33050

Ed Code or CCR to Waive: *Education Code* Section 51222(a). Grades 7-12 Instructional Minutes (a) All pupils, except pupils excused or exempted pursuant to Section 512471, shall be required to attend upon the courses of physical education for a total period of time of not less than 400 minutes each 10 school days.

Outcome Rationale: Fremont Unified School District's Kennedy High School is seeking a general waiver for portions of the California *Education Code*, Section 51222(a), related to the statutory minimum of 400 minutes of physical education required each ten days, for grades nine through twelve, in order to continue to implement a block schedule. Kennedy High School has operated under a 4X4 block quarter schedule for over ten years.

Last year, while preparing for the Healthy Fitness Zone testing, it was discovered that a general waiver had not been filed to accommodate students off track for PE during the testing window for Kennedy High School. Once the waiver was filed with the State, Fremont USD was informed that it was out of compliance because the original waiver for *Education Code* Section 51222(a) was never filed. Kennedy High School students attend physical education courses for 18 weeks during each school year for grades 9 and 10 with the option of taking elective or make-up classes for grades 11 and 12. During their enrollment in physical education classes, students attend PE class for 900 minutes every 10 school days.

Kennedy High School has made numerous efforts to increase student achievement; one way is to provide block scheduling. Block scheduling allows for increased flexibility by providing extended learning opportunities as well as gives students greater access to the academic and intervention programs. The school measures its overall achievement through their assessments and evaluations of their API, AYP and HFZ assessments

Student Population: 1400

City Type: Urban

Public Hearing Date: 1/23/2013

Public Hearing Advertised: web site, newspaper, building posting

Local Board Approval Date: 1/23/2013

Committee/Council Reviewed By: Kennedy High School Site Council  
Committee/Council Reviewed Date: 11/5/12  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Jan March  
Position: Director of Assessment and Instruction  
E-mail: [jmarch@fremont.k12.ca.us](mailto:jmarch@fremont.k12.ca.us)  
Telephone: 510-659-2517 x12200  
Fax:

Bargaining Unit: Date: 9-6-12  
Name: Fremont Unified Teachers Association  
Representative: Brannin Dorsey  
Title: President  
Position: Support  
Comments: n/a

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Jan March  
Position: Director of Assessment and Instruction  
E-mail: [jmarch@fremont.k12.ca.us](mailto:jmarch@fremont.k12.ca.us)  
Telephone: 510-659-2517 x12200  
Fax:

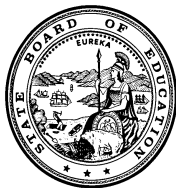
Bargaining Unit: Date: 9-6-12  
Name: Fremont Unified Teachers Association  
Representative: Brannin Dorsey  
Title: President  
Position: Support  
Comments: n/a



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-04**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ Specific Waiver

##### SUBJECT

Request by six local educational agencies under the authority of California *Education Code* Section 52863 for waivers of *Education Code* Section 52852, relating to school site councils regarding changes in shared, composition, or shared and composition members.

Waiver Numbers: Alview-Dairyland Union Elementary 15-1-2013  
Brawley Union High 86-1-2013  
Davis Joint Unified 2-1-2013  
Davis Joint Unified 3-1-2013  
Davis Joint Unified 4-1-2013  
Kings County Office of Education 2-2-013  
Hanford Elementary 8-12-2012  
Siskiyou County Office of Education 5-12-2012

☒ Action

☒ Consent

#### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends approval with the following conditions: See Attachment 1.

#### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Specific authority is provided in California *Education Code* (EC) Section 52863 to allow the State Board of Education (SBE) to waive the School Site Council (SSC) requirements of the School-Based Coordination Program (SBCP) Act that would hinder the success of school-based programs. These waivers must be renewed every two years. Hanford Elementary 8-12-2012 and Siskiyou County Office of Education 5-12-2012 were both on the March agenda, but had typographical errors so these have been corrected on this agenda.

#### SUMMARY OF KEY ISSUES

Alview-Dairyland Union Elementary School District is requesting a shared SSC for Alview Elementary School (8 teachers serving 154 students in kindergarten through grade three) and Dairyland Elementary School (8 teachers serving 203 students in grades four through eight). The two schools share a principal/superintendent and a resource specialist. They are located in close proximity in a rural area.

Brawley Union High School District is requesting an SSC composition change and a shared SSC for Renaissance Community Day School (1 teacher serving 24 students in grades nine through twelve) and Desert Valley Alternative Education High School (8 teachers serving 176 students in grades nine through twelve). The two schools reside on the same campus and collaborate frequently by holding joint meetings such as department meetings and Parent Teacher Club meetings. As both schools are alternative education schools, students transfer in and out of the schools every six weeks. The schools reside in a rural area.

Davis Joint Unified School District is requesting an SSC composition change for Fairfield Elementary School (2 teachers serving 64 students in kindergarten through grade three). It is located in a suburban area.

Davis Joint Unified School District is requesting an SSC composition change for Davis School for Independent Study (10 teachers serving 100 students in kindergarten through grade twelve). It is located in a suburban area.

Davis Joint Unified School District is requesting an SSC composition change for King (Martin Luther) Continuation High School (6 teachers serving 70 students in kindergarten through grade twelve). It is located in a suburban area.

Kings County Office of Education is requesting a shared SSC for Kings Community School (6 teachers serving 116 students in grades seven through twelve) and J.C. Montgomery Juvenile Detention Center (4 teachers serving 56 students in grades seven through twelve). The two schools share one principal and some students attend both schools at alternative times. They are located within two miles from each other in a small city.

Hanford Joint Union High School District is requesting a shared SSC for two schools: Earl F. Johnson Continuation High School (5 teachers serving 125 students in grades ten through twelve) and Hanford Night Continuation School (7 teachers serving 75 students in grades ten through twelve). Both schools have similar student populations and share the same core curriculum and campus in a rural area.

Siskiyou County Office of Education is requesting an SSC composition change for J. Everett Bar Court School (2 teachers serving 12 students in kindergarten through grade twelve). Everett Bar Court School is located in a rural area.

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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There is no statewide fiscal impact of waiver approval.

### **ATTACHMENT(S)**

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Attachment 1: Local Educational Agencies Requesting a School Site Council Waiver  
(4 pages)

Attachment 2: Alview-Dairyland Union Elementary School District Specific Waiver Request 15-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Brawley Union High School District Specific Waiver Request 86-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 4: Davis Joint Unified School District Specific Waiver Request 2-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 5: Davis Joint Unified School District Specific Waiver Request 3-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 6: Davis Joint Unified School District Specific Waiver Request 4-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 7: Kings County Office of Education Specific Waiver Request 2-2-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 8: Hanford Elementary School District Specific Waiver Request 8-12-2012 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 9: Siskiyou County Office of Education Specific Waiver Request 5-12-2012 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

### Local Educational Agencies Requesting a School Site Council Waiver

Waiver Number	LEA for School(s) (CDS Code[s])	LEAs Request	CDE Recommendation	Previous Waiver Yes or No  Period of Request/ Period Recommended	Collective Bargaining Unit Position/ Current Agreement	SSC/Advisory Committee Position	Local Board Approval Date
15-1-2013	Alview-Dairyland Union Elementary School District for Alview Elementary (20 65177 6023865) and Dairyland Elementary (20 65177 6023923)	Shared SSC	Approval with conditions; the SSC must consist of one principal, three classroom teachers (selected by peers), one other school representative (selected by peers), and five parents/community members (selected by peers).	<b>Yes</b>  <b>Period of Request:</b> July 1, 2013 To June 30, 2015  <b>Period Recommended:</b> July 1, 2013 To June 30, 2015	Alview-Dairyland Teachers Association Christine Cook, Chairperson December 19, 2012 <b>Support</b>	School Site Council December 19, 2012 <b>Approve</b>	January 8, 2013
86-1-2013	Brawley Union High School District for Renaissance Community Day School (13 63081 1330141) and Desert Valley Continuation High School (12 63081 1331354)	Shared SSC and Composition Change	Approval with conditions; the SSC must consist of one principal, two classroom teachers (selected by peers), one parent/community member (selected by peers), and two students (selected by peers).	<b>No</b>  <b>Period of Request:</b> February 1, 2013 To June 30, 2015  <b>Period Recommended:</b> February 1, 2013 To January 30, 2015	Brawley Union High School Teachers Association Sherrie Newell, Vice President December 11, 2012 <b>Support</b>	School Site Council December 11, 2012 <b>Approve</b>	January 16, 2013

Waiver Number	LEA for School(s) (CDS Code[s])	LEAs Request	CDE Recommendation	Previous Waiver Yes or No  Period of Request/ Period Recommended	Collective Bargaining Unit Position/ Current Agreement	SSC/Advisory Committee Position	Local Board Approval Date
3-1-2013	Davis Joint Unified School District for Davis School for Independent Study (57 72678 5730098)	SSC Composition Change	Approval with conditions; the SSC must consist of one principal, two classroom teachers (selected by peers), one other school representative (selected by peers), two parents/community members (selected by peers), and two students (selected by peers).	<b>No</b>  <b>Period of Request:</b> July 1, 2012 To June 30, 2014  <b>Period Recommended:</b> July 1, 2012 To June 30, 2014	Davis Teachers Association Frank Thomson, President September 6, 2012 <b>Support</b>	Davis School for Independent Study School Site Council September 20, 2012 <b>Approve</b>	October 18, 2012
2-1-2013	Davis Joint Unified School District for Fairfield Elementary (57 72678 6056253)	SSC Composition Change	Approval with conditions; the SSC must consist of one principal, two classroom teachers (selected by peers), and three parents/community members (selected by peers).	<b>No</b>  <b>Period of Request:</b> July 1, 2012 To June 30, 2014  <b>Period Recommended:</b> July 1, 2012 To June 30, 2014	California State Employees Association James Herrington, President September 2, 2012 Support  Davis Teachers Association Frank Thomson, President September 7, 2012 <b>Support</b>	Fairfield Elementary School Site Council October 3, 2012 Approve	October 18, 2012



Waiver Number	LEA for School(s) (CDS Code[s])	LEAs Request	CDE Recommendation	Previous Waiver Yes or No  Period of Request/ Period Recommended	Collective Bargaining Unit Position/ Current Agreement	SSC/Advisory Committee Position	Local Board Approval Date
4-1-2013	Davis Joint Unified School District for King (Martin Luther) Continuation High (57 72678 5732219)	SSC Composition Change	Approval with conditions; the SSC must consist of one principal, two classroom teachers (selected by peers), and three parents/community members (selected by peers).	<b>No</b>  <b>Period of Request:</b> July 1, 2012 To June 30, 2014  <b>Period Recommended:</b> July 1, 2012 To June 30, 2014	Davis Teachers Association Frank Thomson, President September 6, 2012 <b>Support</b>	King Continuation High School Site Council October 9, 2012 <b>Approve</b>	October 18, 2012
2-2-2013	Kings County Office of Education for Kings County Community School (16 10165 1630193) and J.C. Montgomery (16 10165 1630102)	Shared SSC	Approval with conditions; the SSC must consist of one principal, four classroom teachers (selected by peers), one other school representative (selected by peers), three parents/community members (selected by peers), and three students (selected by peers).	<b>No</b>  <b>Period of Request:</b> January 9, 2013 To January 9, 2015  <b>Period Recommended:</b> January 9, 2013 To January 8, 2015	Kings Teachers Association Damien Phillips, President December 12, 2012 <b>Support</b>	KCOE Alternative Education School Site Council December 5, 2012 <b>Approve</b>	January 9, 2013

Waiver Number	LEA for School(s) (CDS Code[s])	LEAs Request	CDE Recommendation	Previous Waiver Yes or No  Period of Request/ Period Recommended	Collective Bargaining Unit Position/ Current Agreement	SSC/Advisory Committee Position	Local Board Approval Date
8-12-2012	Hanford Elementary School District for Hanford Elementary Community Day School (16 63917 6118459) and Hamilton Elementary School (16 63917 0110981)	Shared SSC	Approval with conditions: the SSC must consist of one principal, three classroom teachers (selected by peers), one other school representative (selected by peers), and five parents/community members (selected by peers).	<b>Yes</b>  <b>Period of Request:</b> July 2, 2013 To June 30, 2015  <b>Period Recommended:</b> July 2, 2013 To June 30, 2015	Hanford Elementary Teachers Association April Silva, President December 3, 2012 <b>Support</b>	CDS/Hamilton SSC December 4, 2012 <b>Approved</b>	December 12, 2012
5-12-2012	Siskiyou County Office of Education for J. Everett Barr Court School (47 10470 4730032)	SSC Composition Change	Approval with conditions: the SSC must consist of one administrator, two classroom teachers (selected by peers), one classified employee, d two students (selected by peers) and two parent/guardian or community members.	<b>No</b>  <b>Period of Request:</b> November 1, 2012 To November 1, 2014  <b>Period Recommended:</b> November 1, 2012 To October 30, 2014	California Teachers Association Michele Hogue, President October 12, 2012 <b>Neutral</b>	School Site Council October 17, 2012 <b>Approved</b>	November 14, 2012

<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 2065177      Waiver Number: 15-1-2013      Active Year: 2013

Date In: 1/9/2013 2:32:57 PM

Local Education Agency: Alview-Dairyland Union Elementary School District  
Address: 12861 Avenue 18 1/2  
Chowchilla, CA 93610

Start: 7/1/2013      End: 6/30/2015

Waiver Renewal: Y  
Previous Waiver Number: 49-3-2011-WC-11      Previous SBE Approval Date: 7/13/2011

Waiver Topic: Schoolsite Council Statute  
Ed Code Title: Shared Schoolsite Council  
Ed Code Section: 52852  
Ed Code Authority: 52863

Ed Code or CCR to Waive: *EC 52852* A schoolsite council shall be established at [each] school which participates in school-based program coordination.

Outcome Rationale: The Alview-Dairyland Union School District is a very small rural district serving only 368 students in grades kindergarten through eight. One person serves as the Superintendent/Principal for both campuses. Each campus has eight classroom teachers with one shared Resource Specialist teacher. The Alview campus houses kindergarten through third grade. The Dairyland campus houses students in grades four through eight. The schools adopt common curriculum and share services. They are located approximately 10 miles apart. Due to the grade level configurations, these schools share the same families. Teachers' meetings, Parent Teacher Club meetings and many school events are also conducted at one school. This waiver is necessary to enable district staff and parents to better communicate and to work more smoothly towards academic achievement. Also, with the many duties of small school district employees, we are able to streamline local agency operations.

Student Population: 368

City Type: Rural

Local Board Approval Date: 1/8/2013

Council Reviewed By: School Site Council  
Council Reviewed Date: 12/19/2012  
Council Objection: N  
Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Lori Flanagan  
Position: Superintendent  
E-mail: lflanagan@adusd.k12.ca.us  
Telephone: 559-665-2394  
Fax: 559-665-7347

Bargaining Unit: Date: 12/19/2012  
Name: Alview-Dairyland Teachers Association  
Representative: Christine Cook  
Title: Bargaining Chairperson  
Position: Support  
Comments:

**California Department of Education**  
**WAIVER SUBMISSION - Specific**

CD Code: 1363081

Waiver Number: 86-1-2013

Active Year: 2013

Date In: 1/29/2013 11:19:27 AM

Local Education Agency: Brawley Union High School District  
Address: 480 North Imperial Ave.  
Brawley, CA 92227

Start: 2/1/2013

End: 6/30/2015

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Schoolsite Council Statute

Ed Code Title: Shared Schoolsite Council with Reduced Number and Composition

Ed Code Section: 52852

Ed Code Authority: 52863

Ed Code or CCR to Waive: *EC 52852* A schoolsite council shall be established at each school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents.

At the secondary level the council shall be constituted to ensure parity between (a) the principal; classroom teachers and other school personnel; and (b) equal numbers of parents, or other community members selected by parents, and pupils.

Outcome Rationale: Renaissance Community Day School is comprised of 24 students and Desert Valley Alternative Education High School is comprised of 176 students. Brawley Union High School District is requesting that these two schools combine resources to form one school site council. Both schools reside on the same site and frequently collaborate with joint department meetings. Teachers' meetings, Parent Teacher Club meetings and many school events are conducted as one school. Renaissance only employs one teacher and it is in the best interest of both schools to combine efforts in order to establish better communication between staff and parents and ensure academic achievement is continually being monitored and improved upon.

The district is also requesting that the composition of their joint School Site Council be waived. Because both schools are alternative education schools, they tend to have revolving enrollment. It has been difficult in establishing the required numbers of parents needed on the committee since students are transferring into and out of the alternative education program every six weeks. We realize site councils are a requirement for schools to participate in school based programs and are making every effort to have a viable council with the staff that we will have.

Proposed Composition: principal/2 teachers (1 from Renaissance, 1 from Desert Valley High School), 1 parent, 2 students

Student Population: 200

City Type: Rural

Local Board Approval Date: 1/16/2013

Council Reviewed By: School Site Council

Council Reviewed Date: 12/11/2012

Council Objection: N

Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Jonine Trevino

Position: Special Projects Coordinator

E-mail: jtrevino@brawleyhigh.org

Telephone: 760-312-6084 x4067

Fax:

Bargaining Unit: Date: 12/11/2012

Name: BUHSTA

Representative: Sherrie Newell

Title: Union Vice President

Position: Support

Comments:

<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 5772678      Waiver Number: 2-1-2013      Active Year: 2013

Date In: 1/7/2013 2:51:56 PM

Local Education Agency: Davis Joint Unified School District  
Address: 526 B St.  
Davis, CA 95616

Start: 7/1/2012      End: 6/30/2014

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Schoolsite Council Statute  
Ed Code Title: Number and Composition of Members  
Ed Code Section: 52852  
Ed Code Authority: 52863

Ed Code or CCR to Waive: A school site council shall be established at each school which participates in school-based program coordination. [The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents.]

Outcome Rationale: This waiver will allow a reduction in the number of teachers and other personnel that will be required to serve on the School Site Council. Fairfield Elementary School is a small school with two teachers and no full time classified employees; therefore, it is not possible to meet the Site Council membership requirement for teacher and other school personnel representation. The functioning School Site Council will retain equity between staff and parents, thus providing appropriate oversight of the school's programs and budget.

Student Population: 64

City Type: Suburban

Local Board Approval Date: 10/18/2012

Council Reviewed By: Fairfield Elementary School Site Council  
Council Reviewed Date: 10/3/2012  
Council Objection: N  
Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Kitty Hudson Cawley  
Position: Manager, Student Achievement  
E-mail: khudson@djusd.net  
Telephone: 530-757-5300 x149  
Fax:

Bargaining Unit: Date: 09/02/2012  
Name: California State Employees Association  
Representative: James Herrington  
Title: President  
Position: Support  
Comments:

Bargaining Unit: Date: 09/07/2012  
Name: Davis Teachers Association  
Representative: Frank Thomson  
Title: President  
Position: Support  
Comments:



<b>California Department of Education WAIVER SUBMISSION - Specific</b>
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CD Code: 5772678      Waiver Number: 3-1-2013      Active Year: 2013

Date In: 1/7/2013 3:09:02 PM

Local Education Agency: Davis Joint Unified School District  
Address: 526 B St.  
Davis, CA 95616

Start: 7/1/2012      End: 6/30/2014

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Schoolsite Council Statute  
Ed Code Title: Number and Composition of Members  
Ed Code Section: 52852  
Ed Code Authority: 52863

Ed Code or CCR to Waive: At the elementary level the council shall be constituted to ensure parity between (a) the principal, classroom teachers and other school personnel; and (b) parents or other community members selected by parents. At both the elementary and secondary levels, [classroom teachers shall comprise the majority of persons represented under category (a).]

Outcome Rationale: Davis School for Independent Study is a K-12 school with ten teachers, making the requirement for Site Council representation by three teachers difficult to meet. The site proposes representation by two teachers, and a subsequent reduction of both parent and student representation from three to two members for the maintenance of parity between school and community representation in the oversight of the school's programs and budget.

Student Population: 100

City Type: Suburban

Local Board Approval Date: 10/18/2012

Council Reviewed By: Davis School for Independent Study School Site Council  
Council Reviewed Date: 9/20/2012  
Council Objection: N  
Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Kitty Hudson Cawley  
Position: Manager, Student Achievement  
E-mail: khudson@djusd.net  
Telephone: 530-757-5300 x149  
Fax:

Bargaining Unit: Date: 09/06/2012  
Name: Davis Teachers Association  
Representative: Frank Thomson  
Title: President  
Position: Support  
Comments:

<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 5772678      Waiver Number: 4-1-2013      Active Year: 2013

Date In: 1/7/2013 3:31:34 PM

Local Education Agency: Davis Joint Unified School District  
Address: 526 B St.  
Davis, CA 95616

Start: 7/1/2012      End: 6/30/2014

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Schoolsite Council Statute  
Ed Code Title: Number and Composition of Members  
Ed Code Section: 52852  
Ed Code Authority: 52863

Ed Code or CCR to Waive: At the secondary level the council shall be constituted to ensure parity between (a) the principal, classroom teachers and other school personnel; and (b) equal numbers of parents, or other community members selected by parents, and pupils.

At both the elementary and secondary levels, [classroom teachers shall comprise the majority of persons represented under category (a).]

Outcome Rationale: King Continuation High School has six teachers, making the requirement of site council representation by three teachers difficult to meet. The site proposes representation by two teachers, and a subsequent reduction of both parent and student representation from three to two members, for the maintenance of parity between school and community representation in the oversight of the school's programs and budget.

Student Population: 70

City Type: Suburban

Local Board Approval Date: 10/18/2012

Council Reviewed By: King Continuation High School Site Council  
Council Reviewed Date: 10/9/2012  
Council Objection: N  
Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Kitty Hudson Cawley  
Position: Manager, Student Achievement  
E-mail: khudson@djusd.net  
Telephone: 530-757-5300 x149  
Fax:

Bargaining Unit: Date: 09/06/2012  
Name: Davis Teachers Association  
Representative: Frank Thomson  
Title: President  
Position: Support  
Comments:

<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 1610165      Waiver Number: 2-2-2013      Active Year: 2013

Date In: 2/5/2013 3:01:43 PM

Local Education Agency: Kings County Office of Education  
Address: 1144 West Lacey Blvd.  
Hanford, CA 93230

Start: 1/9/2013      End: 1/9/2015

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Schoolsite Council Statute  
Ed Code Title: Shared Schoolsite Council  
Ed Code Section: 52852  
Ed Code Authority: 52863

Ed Code or CCR to Waive: *EC 52852* A schoolsite council shall be established at [each] school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and in secondary schools, pupils selected by pupils attending the school.

Outcome Rationale: Kings County Office of Education Alternative Education Program is comprised of Kings Community School (KCS) and J.C. Montgomery Juvenile Detention Center school (J.C.M.).

One principal and one vice-principal supervise both sites. Teachers from both schools meet together as one 'alt ed staff' sharing professional development, curriculum, collaboration and agency support services. The two sites are within 2 miles of each other. KCS site houses 9th-12th grades, and J.C. M. houses incarcerated youth grades 5th-12th. Frequently some students have attended each school at alternate times due to their circumstances. This waiver will streamline staff services and support a well-attended and productive school site council.

Student Population: 160

City Type: Small

Local Board Approval Date: 1/9/2013

Council Reviewed By: KCOE Alternative Education School Site Council  
Council Reviewed Date: 12/5/2012  
Council Objection: N  
Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Judy Cunningham  
Position: Education Consultant  
E-mail: judy.cunningham@kingscoe.org  
Telephone: 559-589-7078  
Fax: 559-589-7006

Bargaining Unit: Date: 12/12/2012  
Name: Kings Teachers Association (KTA)  
Representative: Damien Phillips  
Title: President  
Position: Support  
Comments:

<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 1663917      Waiver Number: 8-12-2012      Active Year: 2012

Date In: 12/13/2012 7:56:23 AM

Local Education Agency: Hanford Elementary School District  
Address: 714 North White St.  
Hanford, CA 93230  
Fax: 559-585-2381

Start: 7/1/2013      End: 6/30/2015

Waiver Renewal: Y  
Previous Waiver Number: 118-2-2011-W-14      Previous SBE Approval Date: 5/12/2011

Waiver Topic: Schoolsite Council Statute  
Ed Code Title: Shared Schoolsite Council  
Ed Code Section: 52852  
Ed Code Authority: 52863

Ed Code or CCR to Waive: Specific authority to waive SSC composition requirements is provided in *EC 52863* for School-Based Coordinated Programs (SBCP). This provision allows the State Board of Education (SBE) to waive requirements of the School-Based Program Coordination Act that would hinder the success of school-based programs. Many waivers of this type have been approved by the SBE for schools serving a common attendance area, are in close proximity, and share a common administration with small numbers of students.

Outcome Rationale: Students who are expelled from school in grades K-6 are referred for enrollment to Hanford Elementary Community Day School (CDS). CDS has two teachers and generally serves approximately 25 students at any given time. A student's placement at CDS is temporary and generally lasts through their expulsion order. This can be one or more trimesters, but students often attend CDS for a single trimester. Given the transient nature of CDS, along with its small student and teacher population, it is difficult to maintain a stable School Site Council. Combining the SSCs from Hamilton and CDS would provide a consistent, stable School Site Council. The joint SSC would draw proportional school council representation from both schools.

Student Population: 19

City Type: Small

Local Board Approval Date: 12/12/2012

Council Reviewed By: CDS/Hamilton School Site Council  
Council Reviewed Date: 12/4/2012  
Council Objection: N



Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Doug Carlton  
Position: Director, Categorical Programs  
E-mail: dcarlton@hesd.k12.ca.us  
Telephone: 559-585-3671  
Fax: 559-585-2381

Bargaining Unit: Date: 12/03/2012  
Name: Hanford Elementary Teachers Association  
Representative: April Silva  
Title: President  
Position: Support  
Comments:

<b>California Department of Education</b> <b>WAIVER SUBMISSION - General</b>
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CD Code: 4710470      Waiver Number: 5-12-2012      Active Year: 2012

Date In: 12/11/2012 3:41:49 PM

Local Education Agency: Siskiyou County Office of Education  
Address: 609 South Gold St.  
Yreka, CA 96097

Start: 11/1/2012      End: 11/1/2014

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Other Waivers  
Ed Code Title: Other Waivers  
Ed Code Section: *EC 52852*  
Ed Code Authority: 33050-33053

Ed Code or *CCR* to Waive: 52852. A schoolsite council shall be established at each school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.

At the elementary level the council shall be constituted to ensure parity between (a) the principal, classroom teachers and other school personnel; and (b) parents or other community members selected by parents.

At the secondary level the council shall be constituted to ensure parity between (a) the principal, classroom teachers and other school personnel; and (b) equal numbers of parents, or other community members selected by parents, and pupils.

At both the elementary and secondary levels, classroom teachers shall comprise the majority of persons represented under category (a).

**Background:**

Using the above statutory requirements a Secondary Schoolsite Council would have to consist of at least [12 people: 1 principal, 3 teachers and 2 other school employees (6 total) and 3 parents or other community members as well as 3 students (6 total)].

Outcome Rationale: The J.Everett Barr Court School has a total of two teachers. This waiver is requested to allow this school to operate their secondary School Site Council with 8 members instead of 12 members. The SSC composition would consist of 1 administrator, 2 teachers, 1 classified employee, 2 students and 2 parent/guardian or community members. This

composition would allow for a majority of teachers on the staff side and would ensure parity between the staff members and students/parents/community members.

Student Population: 12

City Type: Rural

Public Hearing Date: 11/14/2012

Public Hearing Advertised: Posted at 3 sites and on the district website.

Local Board Approval Date: 11/14/2012

Committee/Council Reviewed By: School Site Council

Committee/Council Reviewed Date: 10/17/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Martie Hagarty

Position: Director, Categorical Programs

E-mail: mhagarty@siskiyoucoe.net

Telephone: 530-842-8415

Fax: 530-842-8436

Bargaining Unit: Date: 10/12/2012

Name: California Teachers Association

Representative: Michelle Hogue

Title: President

Position: Neutral

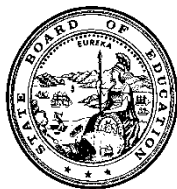
Comments:



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-05**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by four local educational agencies to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow four educational interpreters to continue to provide services to students until June 30, 2013, under a remediation plan to complete those minimum qualifications.

Waiver Numbers: Kings County Office of Education 52-1-2013  
Dinuba Unified School District 70-1-2013  
Exeter Union Elementary School District 79-1-2013  
Plumas Unified School District 37-2-2013

☒ Action

☒ Consent

##### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends approval of the waiver requests for these four interpreters, with the individual conditions noted in the attached spreadsheet.

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In 2002, the State Board of Education (SBE) approved regulations that required educational interpreters to be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent, by January 1, 2007. As of July 1, 2009, they have been required to be certified by the national RID, or equivalent, or to have achieved a score of 4.0 on specified assessments.

##### SUMMARY OF KEY ISSUES

The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA 2004) requires that interpreters for pupils who are deaf or hard of hearing meet state-approved or state-recognized certification, licensing, registration, or other comparable requirements, as defined in Title 34 of the *Code of Federal Regulations*, Section 300.156(b)(1).

To meet this federal requirement, the *California Code of Regulations*, Title 5 (5 CCR), Section 3051.16(b)(3) require the following:

By **July 1, 2009**, and thereafter, an educational interpreter shall be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of **4.0** or above on the Educational Interpreter Performance Assessment (EIPA), the Educational Sign Skills Evaluation-Interpreter/Receptive (ESSE-I/R), or the National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment. If providing Cued Language transliteration, a transliterator shall possess Testing/Evaluation and Certification Unit (TECUnit) certification, or have achieved a score of **4.0** or above on the EIPA – Cued Speech.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in the California *Education Code (EC)* 33051(a),** available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.

In November 2009, the SBE approved a policy regarding educational interpreter waiver requests. That policy is on the CDE website at [http://www.cde.ca.gov/re/lr/wr/documents/interpreter\\_000.doc](http://www.cde.ca.gov/re/lr/wr/documents/interpreter_000.doc)

**Authority for Waiver:** *EC* Section 33050

#### **FISCAL ANALYSIS (AS APPROPRIATE)**

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There is no statewide fiscal impact of waiver approval.

#### **ATTACHMENT(S)**

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Attachment 1: List of Waivers, Numbers, Interpreters, SBE Streamlined Waiver Policy, Period of Request, Local Board Approval, Date of Public Hearing, and New or Renewal (1 page)

Attachment 2: List of Waiver Numbers, Districts, Collective Bargaining Unit Information, Public Hearing Requirement, and Advisory Committee Information (1 page)

Attachment 3: List of Waiver Numbers, Districts, and Information Regarding Each Waiver (1 page)

Attachment 4: List of Waiver Conditions (1 page)

Attachment 5: Kings County Office of Education General Waiver Request 52-1-2013 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 6: Dinuba Unified School District General Waiver Request 70-1-2013 (4 pages) (Original waiver request is signed and on file in the Waiver

Office.)

Attachment 7: Exeter Union Elementary School District General Waiver Request  
79-1-2013 (3 pages) (Original waiver request is signed and on file in the  
Waiver Office.)

Attachment 8: Plumas Unified School District General Waiver Request 37-2-2013  
(3 pages) (Original waiver request is signed and on file in the Waiver  
Office.)

List of Waivers, Numbers, Interpreters, SBE Streamlined Waiver Policy, Period of Request, Local Board Approval, Date of Public Hearing, and New or Renewal

Waiver Number	LEA	Interpreter	SBE Streamlined Waiver Policy	Period of Request	Local Board Approval Date	Date of Public Hearing	New or Renewal
52-1-2013	Kings County Office of Education	Lisa Hernandez	No	<b>Period of Request:</b> August 1, 2012, to June 30, 2013 <b>(from LEA)</b>  <b>Period Recommended:</b> August 1, 2012, to June 30, 2013 <b>(from CDE)</b>	August 1, 2012	August 1, 2012	New, but was employed for 2011-12 school year without waiver
70-1-2013	Dinuba Unified School District	Laura Halstead	No	<b>Period of Request:</b> July 1, 2012, to June 30, 2013 <b>(from LEA)</b>  <b>Period Recommended:</b> July 1, 2012, to June 30, 2013 <b>(from CDE)</b>	January 10, 2013	January 10, 2013	New
79-1-2013	Exeter Union Elementary School District	Sabrina King	No	<b>Period of Request:</b> January 7, 2013, to June 30, 2013 <b>(from LEA)</b>  <b>Period Recommended:</b> January 7, 2013, to June 30, 2013 <b>(from CDE)</b>	January 22, 2013	January 22, 2013	New, but was employed for 2011-12 school year without waiver
37-2-2013	Plumas Unified School District	Stephanie Metzger	Yes	<b>Period of Request:</b> July 1, 2012, to June 30, 2013 <b>(from LEA)</b>  <b>Period Recommended:</b> July 1, 2012, to June 30, 2013 <b>(from CDE)</b>	September 12, 2012	September 12, 2012	New



List of Waiver Numbers, Districts, Collective Bargaining Unit Information, Public Hearing Requirement, and Advisory Committee Information

Waiver Number	LEA	Date Bargaining Unit Consulted	Name of Bargaining Unit and Representative	Bargaining Unit Position	Public Hearing Requirement	Advisory Committee Consulted	Date Committee Reviewed Request	Were there any objections ?
52-1-2013	Kings County Office of Education		Not represented		Notice in the newspaper	Special Education Advisory Council	January 10, 2013	No
70-1-2013	Dinuba Unified School District	December 18, 2012	California School Employees Association Amanda Lowrey, President	Support	Notice posted at each school site	School Site Council	December 6, 2012	No
79-1-2013	Exeter Union Elementary School District	January 15, 2013	California School Employees Association Margie Reed, President	Support	Notice posted at school sites, district office, public library, and local newspaper	District Cabinet School Site Council	January 14, 2013 March 19, 2013	No
37-2-2013	Plumas Unified School District	September 7, 2012	California School Employees Association Judith Yocum, President	Support	Notice posted at each school site and in three public places	Community Advisory Committee	October 22, 2012	No

List of Waiver Numbers, Districts, and Information Regarding Each Waiver

Waiver Number	LEA	Interpreter	Name, Date, and Score of Most Recent Evaluation	Name, Dates, and Scores of Previous Evaluations	Date of Hire
52-1-2013	Kings County Office of Education	Lisa Hernandez	EIPA April 28, 2012 3.6 (72%)	EIPA November 13, 2011 3.3 (66%)  EIPA August, 2010 3.1 (62%)	September 12, 2011  Was employed during 2011-12 school year without a waiver
70-1-2013	Dinuba Unified School District	Laura Halstead	EIPA Pre-Hire Screen September 21, 2012 "OK to Hire/Hire with Caution"	N/A	November 28, 2012
79-1-2013	Exeter Union Elementary School District	Sabrina King	ESSE September 2012 Expressive 4.0 (80%) (April 2012) Receptive 3.5 (70%)	ESSE April 2012 Expressive 4.0 (80%) Receptive 3.4 (68%)	January 9, 2012  Was employed during 2011-12 school year without a waiver
37-2-2013	Plumas Unified School District	Stephanie Metzger	EIPA September 15, 2012 3.2 (64%)	EIPA Prehire Screen September 15, 2012 "OK to Hire/Hire with Caution"	September 4, 2012

September 2012 Educational Interpreter Conditions

Waiver Number	LEA	Interpreter	Conditions
52-1-2013	Kings County Office of Education	Lisa Hernandez	<ol style="list-style-type: none"> <li>1. The Kings County Office of Education must provide Ms. Hernandez with weekly one-on-one mentorship, based on an individualized professional development plan, by a qualified interpreter.</li> <li>2. By June 2013, the Kings County Office of Education must provide CDE with new assessment scores for Ms. Hernandez.</li> </ol>
70-1-2013	Dinuba Unified School District	Laura Halstead	<ol style="list-style-type: none"> <li>1. The Dinuba Unified School District must provide Ms. Halstead with weekly one-on-one mentorship, based on an individualized professional development plan, by a qualified interpreter.</li> <li>2. By June 2013, the Dinuba Unified School District must provide CDE with new assessment scores for Ms. Halstead.</li> </ol>
79-1-2013	Exeter Union Elementary School District	Sabrina King	<ol style="list-style-type: none"> <li>1. The Exeter Union Elementary School District must provide Ms. King with weekly one-on-one mentorship, based on an individualized professional development plan, by a qualified interpreter.</li> <li>2. By June 2013, the Exeter Union Elementary School District must provide CDE with new assessment scores for Ms. King.</li> </ol>
37-2-2013	Plumas Unified School District	Stephanie Metzger	<ol style="list-style-type: none"> <li>1. The Plumas Unified School District must provide Ms. Metzger with weekly one-on-one mentorship, based on an individualized professional development plan, by a qualified interpreter.</li> <li>2. By June 2013, the Plumas Unified School District must provide CDE with new assessment scores for Ms. Metzger.</li> </ol>

**California Department of Education  
WAIVER SUBMISSION - General**

CD Code: 1610165  
Year: 2013

Waiver Number: 52-1-2013

Active

Date In: 1/11/2013 8:38:26 AM

Local Education Agency: Kings County Office of Education  
Address: 1144 West Lacey Blvd.  
Hanford, CA 93230

Start: 8/1/2012

End: 6/30/2013

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Special Education Program  
Ed Code Title: Educational Interpreter for Deaf and Hard of Hearing  
Ed Code Section: CCR, Title 5 Section 3051.16(b)(3)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: [(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent, in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment. If providing Cued Language transliteration, a transliterator shall possess TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.]

Outcome Rationale: We are committed to providing the best services for our deaf and hard of hearing students. It is, however, difficult to find qualified Educational Sign Language Interpreters in our rural area. Ms. Hernandez continues to improve her interpreting skills and is a great asset to our office and our students.

Student Population: 15

City Type: Rural

Public Hearing Date: 8/1/2012

Public Hearing Advertised: In the local newspaper.

Local Board Approval Date: 8/1/2012

Committee/Council Reviewed By: Special Education Advisory Council  
Committee/Council Reviewed Date: 1/10/2013  
Committee/Council Objection: N  
Committee/Council Objection Explanation:  
Audit Penalty YN: N  
Categorical Program Monitoring: N

Submitted by: Ms. Susan Peterson  
Position: Human Resources Analyst  
E-mail: [speterson@kings.k12.ca.us](mailto:speterson@kings.k12.ca.us)  
Telephone: 559-589-7000  
Fax: 559-589-7000

KINGS COUNTY OFFICE OF EDUCATION  
Educational Interpreter Training Plan  
2012-2013

NAME: Lisa Hernandez

POSITION TITLE: Educational Sign Language Interpreter

Effective July 1, 2009, as required by California Code of Regulations, Sections 3051.16 and 3065, regulations specify the following qualification standards for educational interpreters:

By July 1, 2009, and thereafter, an educational interpreter shall be certified by the National RID; or in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ESSE, or the NAD assessment.

If an educational interpreter has not met the standard, the district may apply for a one year waiver on his/her behalf. Waiver requests would include this training plan. To receive a waiver, an interpreter would need to provide evidence to Human Resources that he/she is taking a class, going to trainings and/or taking one of the required assessments to prove that he/she is working toward the required certification.

I understand that I do not yet meet the qualification standards for educational interpreters.

To become a certificated educational interpreter, I must meet one of the following options:

(Check assessment you plan on taking.)

- ☐ Become certified by national RID or  
Score 4.0 or above on one of the following assessments:
- ☒ EIPA  
☐ ESSE  
☐ NAD

Actions I will take to complete the above requirements:  
(Describe your plan)

- ☒ Take test preparation workshop on:  
Date: July 28, 2012 – Central Coast Sign Language Interpreters
- ☒ Take on-line opportunities for Interpreter Training:  
Date: OICMOVIES.COM On-line vinyete of news for the deaf culture to develop signing skills; DCMP – together with Mentor, Patricia Thron.
- ☒ Meet with a mentor on a regular basis:  
Patricia Thron Mentor/Teacher
- ☒ Use/work with resources offered at the Kings County Office of Education
- ☒ Take the EIPA assessment on:  
Date: April 20, 2013 (on waitlist for March 2, 2013)

I further understand that my assigned teacher/mentor and I will discuss my Training Plan regularly to ensure that I am actively working toward the required interpreter certification. By signing below, I understand that I may not be able to continue to be employed by the Kings County Office of Education as an Educational Sign Language Interpreter if I do not meet the required certification level or if a Waiver is not granted by the California Department of Education.

\_\_\_\_\_  
Educational Sign Language Interpreter Date

\_\_\_\_\_  
Administrator Signature Date

Copies to: Employee Employee's Supervisor Mentor/Teacher Human Resources Department

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 5475531

Waiver Number: 70-1-2013

Active Year: 2013

Date In: 1/22/2013 11:46:29 AM

Local Education Agency: Dinuba Unified School District  
Address: 1327 East El Monte Way  
Dinuba, CA 93618

Start: 7/1/2012

End: 6/30/2013

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Special Education Program

Ed Code Title: Educational Interpreter for Deaf and Hard of Hearing

Ed Code Section: CCR, Title 5 Section 3051.16(b)(3)

Ed Code Authority: 33050-33053

Ed Code or CCR to Waive: EC 3051.16. Specialized Services for Low-Incidence Disabilities.

(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils. (3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment. If providing Cued Language transliteration, a transliterator shall possess TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech

Outcome Rationale: Laura Halstead is a Sign Language Interpreter/Tutor whose services are valued by Dinuba Unified School District. With this waiver we can better meet the needs of more of our students who are deaf and hard of hearing. Without a waiver for Laura, our program will not run effectively as our students will be in the general education classroom without a District hired interpreter working with them. In the central valley there are a shortage of certified educational interpreters and the district has been diligently searching for a certified interpreter without success. Laura has been employed as a Sign Language Interpreter/Tutor since 11/28/12. In the hiring process Laura was required to take the Education Interpreter Performance Assessment (EIPA) prehire screening assessment as recommended by the California Department of Education. The screening results indicate "Ok to Hire/Hire with caution/supervision" and recommendation for full EIPA within one year of employment. Laura will be taking the EIPA or the Educational Signs Skilled Evaluation (ESS) at the next scheduled test dates(s) and continue to take the test to meet the qualifications set by Title 5 Educational regulations 3051.16. Laura will be working to pass the EIPA or ESSE by taking on-line classes through Cypress College, receiving mentorship from a certified interpreter and has enrolled in test prep courses. Laura has been and will continue to be mentored by a certified interpreter and an educational specialist who is credentialed in deaf education. A copy of Laura Halstead's Remediation Plan is attached to this Waiver Request. It is worth noting that Laura also works for a private agency that provides sign language interpretation which will allow her to continue to practice her interpreting skills. She currently serves adults at a local community college and has gained experience and skills in an educational environment. This will also support Laura's training to become certified.

Student Population: 6333

City Type: Rural

Public Hearing Date: 1/10/2013

Public Hearing Advertised: Notice posted at each school site

Local Board Approval Date: 1/10/2013

Committee/Council Reviewed By: School Site Council

Committee/Council Reviewed Date: 12/6/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Joe Martinez

Position: Director Special Student Services

E-mail: joe.martinez@dinuba.k12.ca.us

Telephone: 559-595-7200 x216

Fax:

Bargaining Unit: Date: 12/18/2012

Name: CSEA Representative: Amanda Lowrey Title: President

Position: Support

Comments:



Dinuba Unified School District  
Educational Interpreter  
**Remediation Plan (12-13)**

Name: Laura Halstead

Site: Washington Intermediate School

Assignment: Sign Language Interpreter/Tutor

Effective July 1, 2009 as required by CA Code of Regulations, Sections 3051.16 and 3065 regulations specify the following qualification standards for educational interpreters:

By July 1, 2009 and thereafter, an educational interpreter shall be certified by the national RID; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ESSEI/R, or the NAD/ACCI assessment.

If an educational interpreter has not met the standard; the district may apply for a one-year waiver on their behalf. Waiver requests would include this remediation plan. To receive a waiver, interpreter would need to provide evidence to Human Resources that they are taking a class, going to trainings and/or taking one of the required assessments to prove that they are working towards the required certification.

I understand that I do not yet meet the qualification standards for educational interpreters

To become a certified educational interpreter, I must meet one of the following options:

  X   Become a certified interpreter by national RID:  
Score 4.0 or above on one of the following assessments:

       EIPA  
  X   ESSEI/R  
       NAD/ACCI

Actions I will take to complete the above requirements

  X   Take test preparation workshop on:  
Date(s):

  X   Take on-line opportunities for Interpreter Trainings:

       Use/work with resources offered at DHHSC Library:

  X   Take the ESSEI/R assessment on:  
Date:

  X   Meet with a mentor on a regular basis: Kathy Carlson, College of the Sequoias

  X   Meet with mentor Jane Gahl, Tulare County Office of Education Deaf/Hard of Hearing Teacher

I further understand that the Director of Special Student Services and I will discuss my Training Plan regularly to ensure that I am actively working toward the required interpreter certification. If a waiver is granted by CDE, it will be valid until the end of the 2012/2013 school year. If you are unable to provide documentation of a minimum 4.0 on the EIPA, ESSE or RID by June 30, 2013 your assignment as a sign language interpreter/tutor may be terminated.

\_\_\_\_\_  
Educational Interpreter Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Administrator Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
CSEA Chapter President

\_\_\_\_\_  
Date

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 5471910  
Year: 2013

Waiver Number: 79-1-2013

Active

Date In: 1/24/2013 2:58:32 PM

Local Education Agency: Exeter Union Elementary School District  
Address: 134 South E St.  
Exeter, CA 93221

Start: 1/7/2013

End: 6/30/2013

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Special Education Program

Ed Code Title: Educational Interpreter for Deaf and Hard of Hearing

Ed Code Section: CCR, Title 5 Section 3051.16(b)(3)

Ed Code Authority: 33050-33053

Ed Code or CCR to Waive: *California Code of Regulations*, Title 5 (5 CCR) Section 3051.16  
Specialized Services for Low-Incidence Disabilities.

(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.  
[(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment. If providing Cued Language transliteration, a transliterator shall possess TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.]

Outcome Rationale: Sabrina King is an Educational Sign Language Interpreter who has served Exeter Public Schools with appreciable skill and motivation. Sabrina demonstrates excellent rapport with her student, the student's parents and her teachers. A waiver is being requested so that her student will have a consistent interpreter and so her student will not be without an interpreter.

Student Population: 1800

City Type: Small

Public Hearing Date: 1/22/2013

Public Hearing Advertised: Notice posted at school sites, District Office, the Public Library, and the local newspaper

Local Board Approval Date: 1/22/2013

Committee/Council Reviewed By: District Cabinet

Committee/Council Reviewed Date: 1/14/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Aimee Miculian  
Position: Director of Special Education/School Psychologist  
E-mail: amiculian@exeter.k12.ca.us  
Telephone: 559-592-9421 x217  
Fax: 559-592-9445

Bargaining Unit: Date: 01/15/2013  
Name: California School Employees Association  
Representative: Margie Reed  
Title: President  
Position: Support  
Comments:

# Exeter Public Schools

**Tim A. Hire**  
Superintendent

**Laurie Goodman, Ed.D.**  
Deputy Superintendent

**Dawn Riccoboni**  
Chief Business Official

**George Eddy**  
Director of Administrative  
Services/Student Achievement

## **Educational Interpreter Remediation Plan**

Name: Sabrina King

Effective July, 2009, as required by CA Code of Regulations, Sections 3051.16 (b) (3) and 3065, regulations specify the following qualification standards for educational interpreters:

By July 2009, and thereafter, an educational interpreter shall be certified by the national Registry of Interpreters for the Deaf (RID) or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the Educational Interpreter Performance Assessment (EIPA), the Educational Sign Skills Evaluation-Interpreter/Receptive (ESSE-I/R), or the National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment.

If an educational interpreter has not met the standard, the district may apply for a one year waiver on their behalf. Waiver requests would include this remediation plan. To receive a waiver, interpreters would need to provide evidence that they are taking a class, going to trainings and/or taking one of the required assessments to prove that they are working toward the required certification.

At this time my score is 4.0 on the ESSE Expressive Skills and 3.5 on the ESSE Receptive Skills. I understand that I do not yet meet the qualification standards for educational interpreters.

**To become a certified educational interpreter, I must become certified by national RID by scoring 4.0 or above on one of the following assessments: EIPA, ESSE-R/I, OR NAD/ACCI.**

### **Actions I will take to complete the above requirements:**

- ☐ Take test preparation workshops offered through Tulare County Office of Education/Cypress College
  - ☐ Take on-line opportunities for interpreter trainings
  - ☐ Meet with a mentor on a regular basis – Name: Kayla Katamaya
  - ☐ Take the ESSE-R/I on April 13, 2013
  - ☐ Enroll in an Interpreter Course at College of Sequoias

I further understand that my assigned teacher/mentor and I will discuss my Training Plan regularly to ensure that I am actively working toward the required interpreter certification.

\_\_\_\_\_  
Educational Interpreter Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Administrator Signature

\_\_\_\_\_  
Date

***“Excellence and Equality in Education for each Student”***  
**134 South “E” Street ♦ Exeter, California 93221 ♦ (559) 592-9421 ♦ Fax (559) 592-9445**

<b>California Department of Education</b> <b>WAIVER SUBMISSION - General</b>
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CD Code: 3266969  
Year: 2013

Waiver Number: 37-2-2013

Active

Date In: 2/20/2013 10:33:02 AM

Local Education Agency: Plumas Unified School District  
Address: 50 Church St.  
Quincy, CA 95971

Start: 7/1/2012

End: 6/30/2013

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Special Education Program

Ed Code Title: Educational Interpreter for Deaf and Hard of Hearing

Ed Code Section: CCR, Title 5 Section 3051.16(b)(3)

Ed Code Authority: 33050

Ed Code or CCR to Waive: Certification requirements for educational interpreters for deaf and hard of hearing pupils. (By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID or equivalent, in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA.)

Outcome Rationale: We live in a rural, mountain community in the Sierras, a 2 hour drive on mountain roads to the closest city of Chico. We have one 3rd grade Deaf student with normal cognitive ability, she uses ASL as her preferred mode of communication. We have had this student in district for 2 years. She was with our one certified Interpreter, who moved out of the area in August. Stephanie moved to our area from San Diego. She has 10 years of experience working with Deaf students, her skills are good. We sent her for an EIPA screener and assessment on 9/15/2012. She scored "OK to hire" and "Hire with caution/supervision"; we received EIPA assessment results in December, she scored a 3.2 on the EIPA assessment. We have a Certified Interpreter Mentor in place as part of her remediation plan, and her student is making significant educational and social gains.

Student Population: 1800

City Type: Rural

Public Hearing Date: 9/12/2012

Public Hearing Advertised: Notice posted at each school; Posted at 3 public places.

Local Board Approval Date: 9/12/2012

Committee/Council Reviewed By: Community Advisory Committee

Committee/Council Reviewed Date: 10/22/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Lynne Koeller  
Position: SELPA Program Specialist  
E-mail: lkoeller@pcoe.k12.ca.us  
Telephone: 530-283-6500 x275  
Fax:

Bargaining Unit:  
Date: 09/07/2012  
Name: California School Employee Association  
Representative: Judith Yocum  
Title: CSEA Chaper President  
Position: Support  
Comments:

**PLUMAS UNIFIED SCHOOL DISTRICT**  
**Special Education Department**  
**50 Church Street**  
**Quincy, CA 95971**  
**(530) 283-6500 Ext. 275 or 218**

TO: Stephanie Metzger  
FROM: Tori Willits  
DATE: Nov. 14, 2012

SUBJECT: Interpreter Remediation Plan

The State Board of Education has amended two sections of Title 5 of the California Code of Regulations Sections 3051.16 and 3065, to ensure that interpreters for pupils who are deaf or hard of hearing meet state approved or stated-recognized requirements for certification, licensing and registration or other comparable requirements.

“By July 1, 2009 and thereafter an educational interpreter shall be certified by the national RID or equivalent; in lieu of RID certification or equivalent, an educational interpret must have achieved a score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.”

PUSD has provided the following training for you:

EIPA (Educational Interpreter Performance Assessment) for you on 9/15/2012. This assessment will include a written report containing strengths, weaknesses and suggestions for improvement of skills. PUSD has not yet received your EIPA and score.

PUSD is offering to provide and fund an Interpreter Training Program for you that consists of 35 hours of mentoring with an RID Certified Interpreter. The offering of this Interpreter Training program, during the 2012-2013 school year is to assist you with the compliance requirement of a score of 4.0 on the EIPA. PUSD is in the process of applying for a waiver on your behalf with the Department of Education. If a waiver is granted, it will only be for the current school year, ending June 30, 2013.

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PUSD Program Administrator

Employee

CSEA Union Rep.

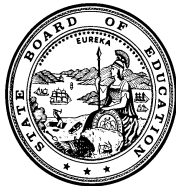




# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-06**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ Specific Waiver

SUBJECT	
<p>Request by two local educational agencies, under the authority of California <i>Education Code</i> Section 56101 and <i>California Code of Regulations</i>, Title 5, Section 3100 to waive <i>Education Code</i> Section 56362(c). Approval of this waiver will allow the resource specialists at the Ferndale High School and Ferndale Elementary School, and the resource specialist at the Kelseyville High School each to exceed the maximum caseload of 28 students by no more than four students (32 maximum).</p> <p>Waiver Numbers: Ferndale Unified School District 32-2-2013 Kelseyville Unified School District 80-1-2013</p>	<p><input checked="" type="checkbox"/> Action</p> <p><input checked="" type="checkbox"/> Consent</p>

#### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends approval with the following conditions: the districts must provide each resource specialist instructional aide time of at least five hours daily whenever the resource specialists' caseloads exceed the statutory maximum caseload of 28 students by no more than four students (32 maximum), during the waiver's effective period, per *California Code of Regulations*, Title 5 (5 CCR), Section 3100(d)(2).

#### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

California *Education Code* (EC) Section 56101 allows the State Board of Education (SBE) to waive any provision of EC or regulation if the waiver is necessary or beneficial when implementing a student individualized education program (IEP). *California Code of Regulations*, Title 5, specifically allows the SBE to approve waivers for resource specialists providing special education services to allow them to exceed the maximum caseload of 28 students by no more than four students. However, there are specific requirements in these regulations which must be met for approval, and if these requirements are not met, the waiver must be denied:

- 1) The requesting agency demonstrates to the satisfaction of the SBE: (A) that the excess resource specialist caseload results from extraordinary fiscal and/or programmatic conditions; and (B) that the extraordinary conditions have been resolved or will be resolved by the time the waiver expires.

- 2) The waiver stipulates that an affected resource specialist will have the assistance of an instructional aide at least five hours daily whenever that resource specialist's caseload exceeds the statutory maximum during the waiver's effective period.
- 3) The waiver confirms that the students served by an affected resource specialist will receive all of the services called for in their individualized education programs.
- 4) The waiver was agreed to by any affected resource specialist, and the bargaining unit, if any, to which the resource specialist belongs, participated in the waiver's development.
- 5) The waiver demonstrates to the satisfaction of the SBE that the excess caseload can be reasonably managed by an affected resource specialist in particular relation to: (A) the resource specialist's pupil contact time and other assigned duties; and (B) the programmatic conditions faced by the resource specialist, including, but not limited to, student age level, age span, and the behavioral characteristics; number of curriculum levels taught at any one time or any given session; and intensity of student instructional needs.

The SBE receives about a dozen waivers of this type each year, and approximately 90 percent are approved. Due to the nature of this type of waiver, they are almost always retroactive.

## **SUMMARY OF KEY ISSUES**

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A resource specialist is a credentialed teacher who provides instruction and services to children with IEPs that are with regular education teachers for the majority of the school day. Resource specialists coordinate special education services with general education programs for his or her students.

Before recommending approval, the existing complaint/compliance database for any district requesting a caseload waiver is examined. If it appears that a particular local educational agency is requesting large numbers of waivers, or upon complaint from an individual resource specialist alleging that waiver conditions are not being followed, referrals are made to the Special Education Division for follow-up.

In the case of the Ferndale Unified School District (FUSD), a recent allegation for failure to adhere to state caseload requirements for teachers in the resource specialist program (RSP) was investigated. The investigation revealed that at various times during the 2012–13 school year the district did exceed the maximum caseload of 28 students, although never by more than four students. One option for corrective action was for the district to receive an SBE-approved caseload waiver and, in fact, the district submitted such a waiver request prior to receiving the CDE's report of corrective actions.

Both FUSD resource specialists agree to an increased caseload of up to 32 students and believe that the district is working towards hiring a part-time employee to provide caseload assistance. This is supported by a copy of the district's job announcement for a part-time RSP position which was submitted to the CDE compliance investigator.

In the case of the Kelseyville Unified School District (KUSD), the district had a vacant resource specialist position at the end of the 2011–12 school year. The KUSD was unable to fill the position with a viable candidate for the 2012–13 school year resulting in an excess caseload for the remaining resource specialist.

The affected resource specialist has an instructional assistant for six and three quarter hours, five days a week for the entire school day. Both the resource specialist and the designated administrator confirmed that all of the services called for in the IEPs of affected students were provided. Further, the resource specialist confirmed that the excess caseload was reasonably managed by him with respect to: (1) student contact time and other assigned duties; and (2) the programmatic conditions faced by the resource specialist.

The KUSD plans to fill the resource specialist vacancy for the 2013–14 school year. There have been no prior documented complaints registered with the CDE related to the KUSD exceeding the maximum RSP caseload of 28 students.

For the reasons noted above, the Department recommends waiver approval for both the FUSD and the KUSD.

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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There is no statewide fiscal impact of waiver(s) approval.

### **ATTACHMENT(S)**

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Attachment 1: Summary Table (1 Page)

Attachment 2: Ferndale Unified School District; Specific Waiver Request for Resource Specialist Caseload (6 Pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 3: Kelseyville Unified School District; Specific Waiver Request for Resource Specialist Caseload (4 Pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

SUMMARY TABLE									
Waiver Number	School District/ School	Name of teacher(s)/ agrees to excess caseload?	Over statutory caseload for more than two school years?	Current aide time/aide time w/approved waiver?	Demographics	Period of Request	Local Board Approval Date	Bargaining Unit Consulted – Date	Position of Bargaining Unit
32-2-2013	Ferndale USD	Seannessy Gavin  Casey Pape	No	4.5/13 hours; Seannessy Gavin  6/11.75 hours; Casey Pape	Ferndale USD has a student population of 505 and is located in a rural city in Humboldt County	<b>Requested:</b> 01/01/2013 – 06/14/2013  <b>Recommended:</b> 01/01/2013 – 06/14/2013	02/13/2013	02/04/2013	Oppose
80-1-2013	Kelseyville USD	James Wenckus	No	Before: 6.75 hrs daily  After: 6.75 hrs daily	Kelseyville USD has a student population of 1723 and is located in a small town in Lake County	<b>Requested:</b> 09/04/2012 – 06/14/2013  <b>Recommended:</b> 09/04/2012 – 06/14/2013	01/17/2013	02/6/2013	Support

<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 1275374

Waiver Number: 32-2-2013    Active Year: 2013

Date In: 2/19/2013 1:47:23 PM

Local Education Agency: Ferndale Unified School District  
Address: 1231 Main St.  
Ferndale, CA 95536

Start: 1/1/2013

End: 6/14/2013

Waiver Renewal: N

Previous Waiver Number:    Previous SBE Approval Date:

Waiver Topic: Special Education Program  
Ed Code Title: Resource Teacher Caseload  
Ed Code Section: 56362 (c)  
Ed Code Authority: 56101 and 5 CCR Section 3100

Ed Code or CCR to Waive: Ed Code 56362 (c) Caseloads for resource specialists shall be stated in the local policies developed pursuant to Section 56195.8 and in accordance with regulations established by the board.

[No resource specialist shall have a caseload which exceeds 28 pupils.]

Outcome Rationale: Ferndale Unified School District has experienced an increase in student enrollment for the 2012-2013 school year as well as a fluctuating Special Education student population. Both resource specialists presently have caseloads over 28. We are currently advertising for an additional resource specialist teacher through our local County Office of education, but our rural geographic location makes this a difficult part time position to fill. To ensure improved student achievement and consistency in curriculum delivery/support, we are applying for a caseload waiver and have also provided significant additional classroom aide support for each special education teacher and their students.

Student Population: 505

City Type: Rural

Local Board Approval Date: 2/13/2013

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Jack Lakin  
Position: Supt/Principal  
E-mail: jlakin@humboldt.k12.ca.us  
Telephone: 707-786-5900  
Fax: 707-786-4865

Bargaining Unit:

Date: 02/04/2013

Name: Ferndale Unified Teachers Association

Representative: Jenny Fisk-Becker

Title: President

Position: Oppose

Comments: Supported the caseload limits as stated in Ed Code 56362 (c)

California Department of Education  
Created 9-21-2012

**SPECIFIC WAIVER REQUEST FOR RESOURCE SPECIALIST CASELOAD**  
**To be completed by the ADMINISTRATOR**

1. SELPA/District/COE Name: Ferndale Unified School District	2. Name of Resource Specialist*: Seanessy Gavin
3. School/District Assignment: Ferndale Elementary School	4. Status: ___ permanent X probational ___ temporary
5. Number of students: (caseload) proposed 31 students	6. Full time Equivalent (FTE%): 1.0 FTE
7. Number of periods or hours taught by Resource Specialist: ___ periods 6.75 hours	8. Average number of students per hour taught: 4.6
<p>9. Indicate amount of Instructional Aide Time 15.00 (hours) to be provided to this resource specialist with this waiver.</p> <p><b>Note: At least 5 hours of aide time is required when the caseload is over 28, per CCR, Title 5, Section 3100 (d)(2):</b></p>	
<p>10. Provide assurance that the waiver will not hinder the implementation of a student's individualized educational program (IEP) for all students involved with the waiver or compliance with specified federal law, per CCR, Title 5, Section 3100(d):</p> <p>A. Increased Aide time B. SCIA's for students as needed C. All students are presently receiving the services indicated by their IEPs</p>	
<p>11. Explain what extraordinary fiscal or program circumstances resulted in this request for excess caseload, per CCR, Title 5, Section 3100(d):</p> <p>A. Recent turn over in special ed. staff B. Reevaluation of SST Process C. Fluctuation in Special Ed. Student population D. Increase in District enrollment E. Limited pool for part time Resource teachers</p>	
<p>12. Indicate how your plan of action to resolve conditions by the time the waiver expires or is denied by the SBE, per CCR, Title 5, Section 3100(d)(1):</p> <p>Presently advertising for a Temporary .20 FTE Resource Specialist teacher for the remainder of the 2012-13 school year. Will develop a plan for securing an additional Resource teacher for the 2013 – 14 school year.</p>	
<p align="center"><i>Certification – I hereby certify that the information provided on this application is correct and complete.</i></p>	
Administrator/Designee Name (Type or print): Jack Lakin	Title: Superintendent
Authorized/Designee Signature: Jack Lakin	Date: 2/14/2013
Telephone number (and extension): 707-786-5900	Fax Number: 707-786-4865



## SPECIFIC WAIVER REQUEST FOR RESOURCE SPECIALIST CASELOAD

### To be completed by the RESOURCE SPECIALIST (Teacher)

Name: Seanessy Gavin	Assigned at: Ferndale HS/Ferndale Elem.
1. Is the information in Items 1-9 on the attached SW-RSC-Administrator form an accurate reflection of your current assignments, personal data, FTE, your caseload, number of periods taught and average number of students? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> If not, please state where you believe these facts or numbers differ:	
2. Will all students served received all of the services called for in their IEP's? Can you reasonably manage the excess caseload in relation to the programmatic condition you face, including, but not limited to, student age level, age span, and behavioral characteristics; number of curriculum levels taught at any one time or any given session, and intensity of student instructional needs. Explain below. Yes, all service times and IEP minutes are met by the schedule. The schedule allows three resource support periods at the high school, which serve 10 or fewer students per class; elementary students receive services in small groups with one-on-one time as needed. Student instructional needs met due to increased aide support. Monthly special education team meetings track how the program is running and insure we have support in meeting responsibilities.	
3. Can you reasonably manage the excess caseload in relation to your student contact time, and other assigned duties? Explain below. Student contact time met by added aide support; sub time provided as needed to assist teachers in completing paperwork and testing.	
4. <i>EC</i> Section 56362(c) states that no resource specialist shall have a caseload which exceeds 28 students, per <i>CCR</i> , Title 5, Section 3100 Regulations allow your agency to request a waiver of the <i>EC</i> , providing certain conditions are met, and that in no circumstance may your caseload be raised to above 32 students.  Indicate your position regarding this waiver request by a check mark in one box.  <input checked="" type="checkbox"/> AGREE – to the increase in my student caseload from 28 students to not more than 32 students.  <input type="checkbox"/> DISAGREE – to an increase in my student caseload over the 28 students. If disagreeing, provide rational below:	
5. Indicate a check mark in the appropriate box:  <input checked="" type="checkbox"/> I did not have a student caseload of more than 28 during the last school year.  <input type="checkbox"/> I did have a student caseload of more than 28 during the last school year. If yes, please respond below:  (a) Did you have an approved waiver for this caseload?  (b) Specify which months/weeks you were over caseload: ____ to ____  (c) Other pertinent information?  <input type="checkbox"/> I have had a student caseload of <b>more than 28</b> for <b>MORE</b> than <b>Two consecutive years</b> .	Instructional Aide time currently receiving  <u>4.5</u> Hours (prior to increased caseload).  Any additional aide time with this waiver?  <u>8.5</u> Total hours after increase.
Resource Specialist Signature:  Seanessy Gavin	Date Signed: 02/14/2013
Telephone/extension: 707-786-5900 Fax Number: 707-786-4865	

California Department of Education  
Created 9-21-2012

**SPECIFIC WAIVER REQUEST FOR RESOURCE SPECIALIST CASELOAD**  
**To be completed by the ADMINISTRATOR**

1. SELPA/District/COE Name: Ferndale Unified School District	2. Name of Resource Specialist*: Casey Pape
3. School/District Assignment: Ferndale Elementary School	4. Status: ___ permanent X probational ___ temporary
5. Number of students: (caseload) proposed 31 students	6. Full time Equivalent (FTE%): 1.0 FTE
7. Number of periods or hours taught by Resource Specialist: ___ periods 6 hours	8. Average number of students per hour taught: 5.16
<p>9. Indicate amount of Instructional Aide Time 11.75 (hours) to be provided to this resource specialist with this waiver.</p> <p><b>Note: At least 5 hours of aide time is required when the caseload is over 28, per CCR, Title 5, Section 3100 (d)(2):</b></p>	
<p>10. Provide assurance that the waiver will not hinder the implementation of a student's individualized educational program (IEP) for all students involved with the waiver or compliance with specified federal law, per CCR, Title 5, Section 3100(d):</p> <p>A. Increased Aide time B. SCiAs for students as needed C. All students are presently receiving the services indicated by their IEPs</p>	
<p>11. Explain what extraordinary fiscal or program circumstances resulted in this request for excess caseload, per CCR, Title 5, Section 3100(d):</p> <p>A. Recent turn over in special ed. staff B. Reevaluation of SST Process C. Fluctuation in Special Ed. Student population D. Increase in District enrollment E. Limited pool for part time Resource teachers</p>	
<p>12. Indicate how your plan of action to resolve conditions by the time the waiver expires or is denied by the SBE, per CCR, Title 5, Section 3100(d)(1):</p> <p>Presently advertising for a Temporary .20 FTE Resource Specialist teacher for the remainder of the 2012-13 school year. Will develop a plan for securing an additional Resource teacher for the 2013 – 14 school year.</p>	
<p align="center"><i>Certification – I hereby certify that the information provided on this application is correct and complete.</i></p>	
Administrator/Designee Name (Type or print): Jack Lakin	Title: Superintendent
Authorized/Designee Signature: Jack Lakin	Date: 2/14/2013
Telephone number (and extension): 707-786-5900	Fax Number: 707-786-4865

\*Resource Specialist as defined in EC Section 56362.5

## SPECIFIC WAIVER REQUEST FOR RESOURCE SPECIALIST CASELOAD

### To be completed by the RESOURCE SPECIALIST (Teacher)

Name: Casey Pape	Assigned at: Ferndale Elementary	
1. Is the information in Items 1-9 on the attached SW-RSC-Administrator form an accurate reflection of your current assignments, personal data, FTE, your caseload, number of periods taught and average number of students? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> If not, please state where you believe these facts or numbers differ:		
2. Will all students served received all of the services called for in their IEP's? Can you reasonably manage the excess caseload in relation to the programmatic condition you face, including, but not limited to, student age level, age span, and behavioral characteristics; number of curriculum levels taught at any one time or any given session, and intensity of student instructional needs. Explain below. Yes. The district has provided additional instructional aides that are under my supervision in providing instruction and support for students on my caseload.		
3. Can you reasonably manage the excess caseload in relation to your student contact time, and other assigned duties? Explain below. Yes. All students services are being met and the district has provided sub time for IEP preparation.		
4. <i>EC</i> Section 56362(c) states that no resource specialist shall have a caseload which exceeds 28 students, per <i>CCR</i> , Title 5, Section 3100 Regulations allow your agency to request a waiver of the <i>EC</i> , providing certain conditions are met, and that in no circumstance may your caseload be raised to above 32 students.  Indicate your position regarding this waiver request by a check mark in one box.  <input checked="" type="checkbox"/> AGREE – to the increase in my student caseload from 28 students to not more than 32 students.  <input type="checkbox"/> DISAGREE – to an increase in my student caseload over the 28 students. If disagreeing, provide rational below:		
5. Indicate a check mark in the appropriate box:  <input checked="" type="checkbox"/> I did not have a student caseload of more than 28 during the last school year.  <input type="checkbox"/> I did have a student caseload of more than 28 during the last school year. If yes, please respond below:  (a) Did you have an approved waiver for this caseload? No (b) Specify which months/weeks you were over caseload: August to Current (c) Other pertinent information? I was employed in another district last year.  <input type="checkbox"/> I have had a student caseload of <b>more than 28</b> for <b>MORE</b> than <b>Two consecutive years</b> .	Instructional Aide time currently receiving  6 Hours (prior to increased caseload).  Any additional aide time with this waiver?  5.75 Total hours after increase.	
Resource Specialist Signature:  Casey Pape	Date Signed:  2/14/13	Telephone/extension: 707-786-5300 Fax Number: 707-786-4284

**California Department of Education**  
**WAIVER SUBMISSION - Specific**

CD Code: 1764014

Waiver Number: 80-1-2013 Active Year: 2013

Date In: 1/24/2013 3:05:29 PM

Local Education Agency: Kelseyville Unified School District  
Address: 4410 Konocti Rd.  
Kelseyville, CA 95451

Start: 9/4/2012

End: 6/14/2013

Waiver Renewal: N

Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: Special Education Program

Ed Code Title: Resource Teacher Caseload

Ed Code Section: 56362 (c)

Ed Code Authority: 56101 and 5 CCR Section 3100

Ed Code or CCR to Waive: No resource specialist shall have a caseload that exceeds 28 students.

Outcome Rationale: Kelseyville Unified is a small rural district in an area increasingly experiencing economic hardship. To resolve this issue with current staff would cause a serious disruption to services in other schools within the district. Moreover, KUSD has advertised for two separate special education positions (SDC-SH and RSP both at Kelseyville Elementary) during the current 2012-2013 school year with extremely limited applicants. It is the opinion of both KUSD administration and Mr. Wenckus that it would be beneficial to wait until the end of the current 2012-2013 school year to advertise for another RSP teacher (should the need continue).

Student Population: 32

City Type: Rural

Local Board Approval Date: 1/17/2013

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. John Leonard

Position: Special Education Director

E-mail: jleonard@kUSD.lake.k12.ca.us

Telephone: 707-279-4435 x1101

Fax:

Bargaining Unit: Date: 12/11/2012  
Name: Kelseyville Unified Teachers Association  
Representative: Rico Abordo  
Title: President  
Position: Support  
Comments:

California Department of Education  
Created 9-21-2012

## SPECIFIC WAIVER REQUEST FOR RESOURCE SPECIALIST CASELOAD

### To be completed by the ADMINISTRATOR

<p>1. SELPA/District/COE Name: Lake County SELPA/Kelseyville Unified</p>	<p>2. Name of Resource Specialist*: James Wenckus</p>
<p>3. School/District Assignment: Kelseyville High School</p>	<p>4. Status: X permanent ___ probational ___ temporary</p>
<p>5. Number of students: (caseload) proposed 32 students</p>	<p>6. Full time Equivalent (FTE%): 1.0 FTE</p>
<p>7. Number of periods or hours taught by Resource Specialist:  6 periods ___ hours</p>	<p>8. Average number of students per hour taught:  13</p>
<p>9. Indicate amount of Instructional Aide Time 6.75 (hours) to be provided to this resource specialist with this waiver.</p> <p><b>Note: At least 5 hours of aide time is required when the caseload is over 28, per CCR, Title 5, Section 3100 (d)(2):</b></p>	
<p>10. Provide assurance that the waiver will not hinder the implementation of a student's individualized educational program (IEP) for all students involved with the waiver or compliance with specified federal law, per CCR, Title 5, Section 3100(d):</p> <p>I have had multiple discussions with Mr. Wenckus (RSP teacher) in regards to this issue. Both KUSD and Mr. Wenckus are of the opinion that all students are currently receiving all services in accordance with their IEP, and that the higher number of students is not a hindrance to implementation of any student's IEP.</p>	
<p>11. Explain what extraordinary fiscal or program circumstances resulted in this request for excess caseload, per CCR, Title 5, Section 3100(d):</p> <p>Kelseyville Unified is a small rural district in an area increasingly experiencing economic hardship. Mr. Wenckus is only RSP teacher at KHS, so to resolve this issue with current staff would cause a serious disruption to services in other schools within the district. Moreover, KUSD has advertised for two separate special education positions (SDC-SH and RSP both at Kelseyville Elementary) during the current 2012-2013 school year with extremely limited applicants. It is the opinion of both KUSD administration and Mr. Wenckus that would be beneficial to wait until the end of the current 2012-2013 school year to advertise for another RSP teacher (should the need continue).</p>	
<p>12. Indicate how your plan of action to resolve conditions by the time the waiver expires or is denied by the SBE, per CCR, Title 5, Section 3100(d)(1):</p> <p>KUSD administration will look at the RSP caseload in the spring, including graduating students from Kelseyville High School and incoming students from Mt. Vista Middle School. If the RSP caseload is anticipated to be over 28 students for the 2013-2014 school year, KUSD will seek to add additional staff at KHS.</p>	
<p><i>Certification – I hereby certify that the information provided on this application is correct and complete.</i></p>	
<p>Administrator/Designee Name (Type or print):  John Leonard</p>	<p>Title:  Special Education Director</p>
<p>Authorized/Designee Signature:</p>	<p>Date:</p>
<p>Telephone number (and extension): (707) 279-4435 x1101</p>	<p>Fax Number: (707) 279-0985</p>

\*Resource Specialist as defined in EC Section 56362.5

## SPECIFIC WAIVER REQUEST FOR RESOURCE SPECIALIST CASELOAD

### To be completed by the RESOURCE SPECIALIST (Teacher)

Name: James Wenckus	Assigned at: Kelseyville High School
1. Is the information in Items 1-9 on the attached SW-RSC-Administrator form an accurate reflection of your current assignments, personal data, FTE, your caseload, number of periods taught and average number of students? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> If not, please state where you believe these facts or numbers differ:	
2. Will all students served received all of the services called for in their IEP's? Can you reasonably manage the excess caseload in relation to the programmatic condition you face, including, but not limited to, student age level, age span, and behavioral characteristics; number of curriculum levels taught at any one time or any given session, and intensity of student instructional needs. Explain below.  Yes they will.	
3. Can you reasonably manage the excess caseload in relation to your student contact time, and other assigned duties? Explain below.  Yes I can.	
4. <i>EC</i> Section 56362(c) states that no resource specialist shall have a caseload which exceeds 28 students, per <i>CCR</i> , Title 5, Section 3100 Regulations allow your agency to request a waiver of the <i>EC</i> , providing certain conditions are met, and that in no circumstance may your caseload be raised to above 32 students.  Indicate your position regarding this waiver request by a check mark in one box.  <input checked="" type="checkbox"/> AGREE – to the increase in my student caseload from 28 students to not more than 32 students.  <input type="checkbox"/> DISAGREE – to an increase in my student caseload over the 28 students. If disagreeing, provide rational below:	
5. Indicate a check mark in the appropriate box:  <input checked="" type="checkbox"/> I did not have a student caseload of more than 28 during the last school year.  <input type="checkbox"/> I did have a student caseload of more than 28 during the last school year. If yes, please respond below:  (a) Did you have an approved waiver for this caseload?  (b) Specify which months/weeks you were over caseload: ____ to ____  (c) Other pertinent information?  <input type="checkbox"/> I have had a student caseload of <b>more than 28</b> for <b>MORE</b> than <b>Two consecutive years</b> .	Instructional Aide time currently receiving  6.75 Hours (prior to increased caseload).  Any additional aide time with this waiver?  ____ Total hours after increase.
Resource Specialist Signature:	Date Signed:
Telephone/extension: (707) 279-4232 x1236 Fax Number: (707) 279-9173	



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-07**





## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ Specific Waiver

SUBJECT	
Request by nine school districts under the authority of California <i>Education Code</i> Section 49548 to waive <i>Education Code</i> Section 49550, the State Meal Mandate during the summer school session.	
Waiver Numbers: Eastern Sierra Unified School District 8-3-2013 Liberty Elementary School District 11-3-2013 McCabe Union Elementary School District 14-2-2013 Midway Elementary School District 17-2-2013 Sierra-Plumas Joint Unified School District 25-2-2013  Snowline Joint Unified School District 49-2-2013 Wasco Union High School District 16-3-2013 Wiseburn Elementary School District 12-2-2013 Yreka Union High School District 27-3-2013	<input checked="" type="checkbox"/> Action  <input checked="" type="checkbox"/> Consent

#### RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

#### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Waiver requests fully meeting the statutory conditions are sent to the California State Board of Education consent calendar.

#### SUMMARY OF KEY ISSUES

Nine districts have requested summer school meal waivers under authority of the California *Education Code* (EC) Section 49548, to waive EC Section 49550, the requirement that meals be served each school day.

School sites operating a summer school session shall be granted a waiver so that meals do not have to be served if they meet one of the following conditions:

#### CONDITION ONE

Elementary schools shall be granted a waiver if a Summer Food Service Program (SFSP) for children site is available within one-half mile of the school site. Middle schools, junior high schools, and high schools shall be granted a waiver if a SFSP

site is available within one mile of the school site. Additionally, one of the following conditions must exist:

- The hours of operation of the SFSP site commence no later than one-half hour after the completion of the summer school session day.
- The hours of operation of the SFSP site conclude no earlier than one hour after the completion of the summer school session day.

For purposes of this section of law, “elementary school” means a public school that maintains kindergarten or any of grades first through eighth inclusive.

## CONDITION TWO

Serving meals during the summer school session would result in a financial loss to the school district, documented in a financial analysis performed by the school district, in an amount equal to one-third of the net cash resources as defined in Title 7, *Code of Federal Regulations*, Section 210.2, which, for purposes of this section of law, shall exclude funds that are encumbered. If there are no net cash resources, the financial loss must be greater than or equal to the operating costs of one month as averaged over the summer school sessions.

The financial analysis must include a projection of future meal program participation based on either of the following:

- The meal service period beginning after the commencement of the summer school session day and concluding before the completion of the summer school session day. In other words, districts must project profit or loss based on serving a breakfast or a lunch **during school hours** and not before or after the school day.
- The school site operating as an open Summer Seamless Feeding Option or a SFSP site, and providing adequate notification thereof, including flyers and banners, in order to fulfill community needs under the SFSP.

## CONDITION THREE

Summer school sites that operate two hours or less including breaks and recess shall be granted a waiver.

The districts listed in Attachment 1 have requested a waiver of *EC* Section 49550 for the summer of 2013 and have certified their compliance with all required conditions necessary to obtain a waiver.

The California Department of Education (CDE) has reviewed the waiver requests from the districts and recommends approval based on meeting the conditions (One, Two, or Three) listed in the fifth column on Attachment 1.

**Authority for Waiver:** *EC* Section 49548

**Bargaining unit(s) consulted on date(s):** Not required

**FISCAL ANALYSIS (AS APPROPRIATE)**

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Approval of the waivers may reduce the draw on Proposition 98 funds at the State level. Local district finances may be affected.

**ATTACHMENT(S)**

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- Attachment 1: Districts Meeting Statutory Waiver Conditions (2 Pages)
- Attachment 2: Eastern Sierra Unified School District Specific Waiver Request 8-3-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 3: Liberty Elementary School District Specific Waiver Request 11-3-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 4: McCabe Union Elementary School District Specific Waiver Request 14-2-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 5: Midway Elementary School District Specific Waiver Request 17-2-2013 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 6: Sierra-Plumas Joint Unified School District Specific Waiver Request 25-2-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 7: Snowline Joint Unified School District Specific Waiver Request 49-2-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 8: Wasco Union High School District Specific Waiver Request 16-3-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 9: Wiseburn Elementary School District Specific Waiver Request 12-2-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 10: Yreka Union High School District Specific Waiver Request 27-3-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Waiver Number	District	School Site	Effective Period of Request(s)	Local Board Approval Date	Condition Being Met
8-3-2013	Eastern Sierra Unified School District	Antelope Elementary Bridgeport Elementary Edna Beaman Elementary Lee Vining Elementary	<b>Requested:</b> 7-1 to 8-9 2013  <b>Recommended:</b> 7-1 to 8-9 2013	2/13/2013	2
11-3-2013	Liberty Elementary School District	Liberty Elementary School	<b>Requested:</b> 7-8 to 7-25-2013  <b>Recommended:</b> 7-8 to 7-25-2013	2/21/2013	2
14-2-2013	McCabe Union Elementary School District	McCabe Elementary	<b>Requested:</b> 6-20 to 7-3-2013  <b>Recommended:</b> 6-20 to 7-3-2013	2/12/2013	3
17-2-2013	Midway Elementary School District	Midway School	<b>Requested:</b> 6-10 to 7-5-2013  <b>Recommended:</b> 6-10 to 7-5-2013	2/12/2013	3
25-2-2013	Sierra-Plumas Joint Unified School District	Loyalton High School	<b>Requested:</b> 6-24 to 8-16-2013 <b>Recommended:</b> 6-24 to 8-16-2013	2/12/2013	3

49-2-2013	Snowline Joint Unified School District	Serrano High School Vista Verde	<b>Requested:</b> 6-17 to 7-19-2013  <b>Recommended:</b> 6-17 to 7-19-2013	2/26/2013	3
16-3-2013	Wasco Union High School District	Wasco High School	<b>Requested:</b> 6-10 to 7-3-2013  <b>Recommended:</b> 6-10 to 7-3-2013	3/5/2013	1
12-2-2013	Wiseburn Elementary School District	Juan de Anza Elementary	<b>Requested:</b> 6-24 to 7-19-2013  <b>Recommended:</b> 6-24 to 7-19-2013	2/7/2013	1
27-3-2013	Yreka Union High School District	Yreka High School	<b>Requested:</b> 6-17 to 7-19-2013  <b>Recommended:</b> 6-17 to 7-19-2013	2/20/2013	3

<b>California Department of Education WAIVER SUBMISSION - Specific</b>
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CD Code: 2673668

Waiver Number: 8-3-2013

Active Year: 2013

Date In: 3/4/2013 9:41:16 AM

Local Education Agency: Eastern Sierra Unified School District  
Address: 231 Kingsley St.  
Bridgeport, CA 93517

Start: 7/1/2013 End: 8/9/2013

Waiver Renewal: Y

Previous Waiver Number: 34-1-2012-W-22 Previous SBE Approval Date: 5/9/2012

Waiver Topic: State Meal Mandate  
Ed Code Title: Summer School Session  
Ed Code Section: 49550  
Ed Code Authority: 49548

Ed Code or CCR to Waive: 49550 (whole section)

Brief description of the topic of the waiver: State Meal Mandate for meals during summer school sessions.

49550 (a) Notwithstanding any other provision of law, each school district or county superintendent of schools maintaining any kindergarten or any of grades 1 to 12, inclusive, shall provide for each needy pupil one nutritionally adequate free or reduced-price meal during each school day, except for family day care homes that shall be reimbursed for 75 percent of the meals served.

Outcome Rationale: Operation of the Summer meal Program at four locations serving merely a total of 70 students would cause an undue financial hardship on the district.

Student Population: 443

City Type: Small

Local Board Approval Date: 2/13/2013

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Steve Beecher  
Position: Business Manager  
E-mail: [sbeecher@esUSD.org](mailto:sbeecher@esUSD.org)  
Telephone: 760-932-7443 x1004  
Fax:

### DISTRICT INFORMATION

Site Name: Antelope Elementary School		
Summer School day at this site begins: 8:00 and ends: 11:30.		
Total Time: 3/30 (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input checked="" type="checkbox"/>		
Meal time at this site for the summer session begins: 11:10 and ends: 11:30		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input checked="" type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name: Bridgeport Elementary School		
Summer School day at this site begins: 8:00 and ends: 11:30.		
Total Time: 3/30 (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input checked="" type="checkbox"/>		
Meal time at this site for the summer session begins: 11:10 and ends: 11:30		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input checked="" type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name: Edna Beaman Elementary School		
Summer School day at this site begins: 8:00 and ends: 11:30.		
Total Time: 3/30 (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input checked="" type="checkbox"/>		
Meal time at this site for the summer session begins: 11:10 and ends: 11:30		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input checked="" type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name: Lee Vining Elementary School		
Summer School day at this site begins: 8:00 and ends: 11:30.		
Total Time: 3/30 (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input checked="" type="checkbox"/>		
Meal time at this site for the summer session begins: 11:10 and ends: 11:30		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input checked="" type="checkbox"/>	Condition THREE <input type="checkbox"/>

Summer meal waivers must be received by the CDE Waiver Office no later than 60 days prior to the last regular meeting of the State Board of Education (SBE) and before the commencement of the summer school session for which the waiver is sought. Therefore, please have your completed summer school meal waiver request into the CDE Waiver Office by March 8, 2013 at the latest.

If you have questions regarding the attachments to the waiver or how to meet the waiver criteria, please contact Donna Reedy, School Nutrition Programs Analyst, Nutrition Services Division, at 916-327-5866 or by e-mail at [dreedy@cde.ca.gov](mailto:dreedy@cde.ca.gov).



<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 4970797

Waiver Number: 11-3-2013    Active Year: 2013

Date In: 3/5/2013 3:36:32 PM

Local Education Agency: Liberty Elementary School District  
Address: 170 Liberty School Rd.  
Petaluma, CA 94952

Start: 7/8/2013

End: 7/25/2013

Waiver Renewal: Y

Previous Waiver Number: 79-2-2012-W-22

Previous SBE Approval Date: 5/9/2012

Waiver Topic: State Meal Mandate

Ed Code Title: Summer School Session

Ed Code Section: 49550

Ed Code Authority: 49548

Ed Code or CCR to Waive: 49550(a). Notwithstanding any other provision of law, each school district or county superintendent of schools maintaining any kindergarten or any of grades 1 to 12, inclusive, shall provide for each needy pupil one nutritionally adequate free or reduced-price meal during each school day.

Outcome Rationale: Our agency would like to receive a waiver of the requirement to serve meals to students at this year's summer school session for one school site. We understand that we must meet one of three conditions of ED 49548(a) and qualify for Condition Two.

Condition Two: Serving meals during the summer school session would result in a financial loss.

Student Population: 204

City Type: Suburban

Local Board Approval Date: 2/21/2013

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Patricia Petzar

Position: Business Clerk

E-mail: ppetzar@libertysd.org

Telephone: 707-795-4380 x120

Fax: 707-795-6468

### DISTRICT INFORMATION

Site Name: Liberty Elementary School		
Summer School day at this site begins: <b>8:25 a.m. and ends 11:55 a.m.</b>		
Total Time: <b>3.5 hours</b>		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: _____ and ends: _____		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	<b>Condition TWO xxx</b>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins: _____ and ends: _____		
Total Time: _____ (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: _____ and ends: _____		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins: _____ and ends: _____		
Total Time: _____ (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: _____ and ends: _____		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins: _____ and ends: _____		
Total Time: _____ (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: _____ and ends: _____		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Summer meal waivers must be received by the CDE Waiver Office no later than 60 days prior to the last regular meeting of the State Board of Education (SBE) and before the commencement of the summer school session for which the waiver is sought. Therefore, please have your completed summer school meal waiver request into the CDE Waiver Office by March 8, 2013 at the latest.

If you have questions regarding the attachments to the waiver or how to meet the waiver criteria, please contact Donna Reedy, School Nutrition Programs Analyst, Nutrition Services Division, at 916-327-5866 or by e-mail at [dreedy@cde.ca.gov](mailto:dreedy@cde.ca.gov).

<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 1363180

Waiver Number: 14-2-2013    Active Year: 2013

Date In: 2/13/2013 2:23:03 PM

Local Education Agency: McCabe Union Elementary School District  
Address: 701 West McCabe Rd.  
El Centro, CA 92243

Start: 6/20/2013 End: 7/3/2013

Waiver Renewal: Y

Previous Waiver Number: 101-1-2012-W-22    Previous SBE Approval Date: 5/9/2012

Waiver Topic: State Meal Mandate  
Ed Code Title: Summer School Session  
Ed Code Section: 49550  
Ed Code Authority: 49548

Ed Code or CCR to Waive: State Meal Mandate for meals during summer school sessions

Outcome Rationale: The entire summer school day is two hours or less in duration. Will start at 8:30 and end at 10:30

Student Population: 1255

City Type: Rural

Local Board Approval Date: 2/12/2013

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Gary Hobelman  
Position: Business Manager  
E-mail: ghobelman@mccabeschool.net  
Telephone: 760-335-5200 x5204  
Fax:

### DISTRICT INFORMATION

Site Name: McCabe Union Elementary School District		
Summer School day at this site begins: 8:30		and ends: 10:30
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins:		and ends:
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input checked="" type="checkbox"/>

Site Name:		
Summer School day at this site begins:		and ends:
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins:		and ends:
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins:		and ends:
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins:		and ends:
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins:		and ends:
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins:		and ends:
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Summer meal waivers must be received by the CDE Waiver Office no later than 60 days prior to the last regular meeting of the State Board of Education (SBE) and before the commencement of the summer school session for which the waiver is sought. Therefore, please have your completed summer school meal waiver request into the CDE Waiver Office by March 8, 2013 at the latest.

If you have questions regarding the attachments to the waiver or how to meet the waiver criteria, please contact Donna Reedy, School Nutrition Programs Analyst, Nutrition Services Division, at 916-327-5866 or by e-mail at [dreedy@cde.ca.gov](mailto:dreedy@cde.ca.gov).

<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 1563669

Waiver Number: 17-2-2013    Active Year: 2013

Date In: 2/14/2013 10:39:16 AM

Local Education Agency: Midway Elementary School District  
Address: 259 F St.  
Fellows, CA 93224

Start: 6/10/2013

End: 7/5/2013

Waiver Renewal: N

Previous Waiver Number:    Previous SBE Approval Date:

Waiver Topic: State Meal Mandate

Ed Code Title: Summer School Session

Ed Code Section: 49550

Ed Code Authority: 49548

Ed Code or CCR to Waive: 49550. ~~(a) Notwithstanding any other provision of law, each school district or county superintendent of schools maintaining any kindergarten or any of grades 1 to 12, inclusive, shall provide for each needy pupil one nutritionally adequate free or reduced-price meal during each schoolday, except for family day care homes that shall be reimbursed for 75 percent of the meals served.~~

Outcome Rationale: Our Summer School Program is only 2 hours per day. 8:30am-10:30am

Student Population: 97

City Type: Rural

Local Board Approval Date: 2/12/2013

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. TONI MCKNIGHT

Position: EXECUTIVE SECRETARY

E-mail: tomckni@zeus.kern.org

Telephone: 661-768-4344

Fax: 661-768-4746

Bargaining Unit: Date: 02/12/2013

Name: CSEA

Representative: JOSE SALAS JR

Title: PRESIDENT

Position: Support

Comments:

Bargaining Unit: Date: 02/12/2013  
Name: CTA  
Representative: PEG BAIRD  
Title: REPRESENTATIVE  
Position: Support  
Comments

## DISTRICT INFORMATION

Site Name: MIDWAY SCHOOL DISTRICT		
Summer School day at this site begins: 06/11/12 and ends: 07/06/12.		
Total Time: 2HRS (Hrs/Min)		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input checked="" type="checkbox"/>

Site Name:		
Summer School day at this site begins: and ends: .		
Total Time: (Hrs/Min)		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins: and ends: .		
Total Time: (Hrs/Min)		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

For more details on the conditions, please see the California Department of Education (CDE) website at: <http://www.cde.ca.gov/re/lr/wr/othertopics.asp#summermeal>.

Summer meal waivers must be received by the CDE Waiver Office no later than 30 days prior to the last regular meeting of the State Board of Education (SBE) and before the commencement of the summer school session for which the waiver is sought. Therefore, please have your completed summer school meal waiver into the CDE Waiver Office by February 10, 2012 or April 13, 2012 at the latest.

If you have questions on the waiver form, timeline or process, please call the waiver office at 916-319-0824. If you have questions regarding the attachments to the waiver or how to meet the waiver criteria, please contact Donna Reedy, School Nutrition Programs Analyst, Nutrition Services Division, at 916-327-5866 or by e-mail at [dreedy@cde.ca.gov](mailto:dreedy@cde.ca.gov).

**California Department of Education**  
**WAIVER SUBMISSION - Specific**

CD Code: 4670177

Waiver Number: 25-2-2013 Active Year: 2013

Date In: 2/14/2013 12:56:34 PM

Local Education Agency: Sierra-Plumas Joint Unified School District  
Address: 305 South Lincoln St.  
Sierraville, CA 96126

Start: 6/24/2013

End: 8/16/2013

Waiver Renewal: Y

Previous Waiver Number: 89-2-2012-w-22 Previous SBE Approval Date: 5/9/2012

Waiver Topic: State Meal Mandate  
Ed Code Title: Summer School Session  
Ed Code Section: 49550  
Ed Code Authority: 49548

Ed Code or CCR to Waive: the federal summer food service program

~~**49550.** (a) Notwithstanding any other provision of law, each school district or county superintendent of schools maintaining any kindergarten or any of grades 1 to 12, inclusive, shall provide for each needy pupil one nutritionally adequate free or reduced price meal during each schoolday, except for family day care homes that shall be reimbursed for 75 percent of the meals served.~~

Outcome Rationale: We have only a few students, 5 or 6, that will need to attend summer school and an hour or less time is sufficient. Therefore, our district falls under Condition number three.

Student Population: 399

City Type: Rural

Local Board Approval Date: 2/12/2013

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Lauriel Wentling  
Position: Accounting Technician  
E-mail: [lwentling@spjUSD.org](mailto:lwentling@spjUSD.org)  
Telephone: 530-994-1044 x13  
Fax: 530-994-1045



CALIFORNIA DEPARTMENT OF EDUCATION  
**SPECIFIC WAIVER REQUEST**

**SUMMER SCHOOL MEAL WAIVER**

SI-1 (Rev. 01-11-2012) <http://www.cde.ca.gov/re/lr/wr/>

**SITE INFORMATION**

Page 2 of 2

List all sites for this waiver request. If you check Conditions One or Two, the paperwork can be found here: <http://www.cde.ca.gov/re/lr/wr/documents/conditionone.doc> for Condition One and <http://www.cde.ca.gov/re/lr/wr/documents/updatecondition2.xls> for Condition Two. Attach additional sheets if more sites are included.

Site Name: Loyaltan High School		
Summer School day at this site begins: 10am and ends: 11am. Total Time: 1(Hrs/Min)		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input checked="" type="checkbox"/>

Site Name:		
Summer School day at this site begins: and ends: . Total Time: (Hrs/Min)		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins: and ends: . Total Time: (Hrs/Min)		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

For more details on the conditions, please see the California Department of Education (CDE) website at: <http://www.cde.ca.gov/re/lr/wr/othertopics.asp#summermeal>.

Summer meal waivers must be received by the CDE Waiver Office no later than 30 days prior to the last regular meeting of the State Board of Education (SBE) and before the commencement of the summer school session for which the waiver is sought. Therefore, please have your completed summer school meal waiver into the CDE Waiver Office by February 10, 2012 or April 13, 2012 at the latest.

If you have questions on the waiver form, timeline or process, please call the waiver office at 916-319-0824. If you have questions regarding the attachments to the waiver or how to meet the waiver criteria, please contact Donna Reedy, School Nutrition Programs Analyst, Nutrition Services Division, at 916-327-5866 or by e-mail at [dreed@cdede.ca.gov](mailto:dreed@cdede.ca.gov).

**California Department of Education**  
**WAIVER SUBMISSION - Specific**

CD Code: 3673957

Waiver Number: 49-2-2013 Active Year: 2013

Date In: 2/27/2013 10:40:35 AM

Local Education Agency: Snowline Joint Unified School District  
Address: 4075 Nielson Rd.  
Phelan, CA 92329

Start: 6/17/2013 End: 7/19/2013

Waiver Renewal: Y

Previous Waiver Number: 15-4-2011-WC-12 Previous SBE Approval Date: 5/12/2011

Waiver Topic: State Meal Mandate  
Ed Code Title: Summer School Session  
Ed Code Section: 49550  
Ed Code Authority: 49548

Ed Code or CCR to Waive: 49550. ~~(a) Notwithstanding any other provision of law, each school district or county superintendent of schools maintaining any kindergarten or any of grades 1 to 12, inclusive, shall provide for each needy pupil one nutritionally adequate free or reduced-price meal during each schoolday, except for family day care homes that shall be reimbursed for 75 percent of the meals served.~~

Outcome Rationale: Our summer school is a virtual school no student is on campus, therefore we will not be serving meals.

Student Population: 500

City Type: Rural

Local Board Approval Date: 2/26/2013

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Kim Marksbury  
Position: Director, Nutrition Services  
E-mail: kim\_marksbury@snowlineschools.com

Telephone: 760-868-5817 x7126  
Fax: 760-868-1115

## DISTRICT INFORMATION

Site Name: Serrano High School		
Summer School day at this site begins: 8:00am and ends:2:00pm It is all distant learning, no student will be on campus daily for two hours.		
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE X

Site Name: Vista Verde		
Summer School day at this site begins: 8:00am and ends:2:00pm It is all distant learning, no student will be on campus daily for two hours.		
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE X

Site Name:		
Summer School day at this site begins: and ends:		
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins: and ends:		
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Summer meal waivers must be received by the CDE Waiver Office no later than 60 days prior to the last regular meeting of the State Board of Education (SBE) and before the commencement of the summer school session for which the waiver is sought. Therefore, please have your completed summer school meal waiver request into the CDE Waiver Office by March 8, 2013 at the latest.

If you have questions regarding the attachments to the waiver or how to meet the waiver criteria, please contact Donna Reedy, School Nutrition Programs Analyst, Nutrition Services Division, at 916-327-5866 or by e-mail at [dreedy@cde.ca.gov](mailto:dreedy@cde.ca.gov).

<b>California Department of Education WAIVER SUBMISSION - Specific</b>
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CD Code: 1563859

Waiver Number: 16-3-2013 Active Year: 2013

Date In: 3/6/2013 3:10:58 PM

Local Education Agency: Wasco Union High School District  
Address: 2100 Seventh St.  
Wasco, CA 93280

Start: 6/10/2013 End: 7/3/2013

Waiver Renewal: N

Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: State Meal Mandate  
Ed Code Title: Summer School Session  
Ed Code Section: 49550, 49552  
Ed Code Authority: 49548

Ed Code or CCR to Waive: *EC* Section 49550 requires that public school districts and county offices of education maintaining kindergarten or any of grades 1 to 12 shall “. . . provide for each needy pupil one nutritionally adequate free or reduced-price meal during each school day . . . .” *EC* Section 49552 defines a needy child as one meeting federal eligibility criteria for free or reduced-price meals. This requirement extends to summer school and Saturday classes. The meal can be breakfast or lunch, and it must meet the federal meal pattern requirements.

Outcome Rationale: Students were walking to Summer Food Program sites to eat and not participating in sack meals provided by high school.

Student Population: 1700

City Type: Rural

Local Board Approval Date: 3/5/2013

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Gale Huffaker  
Position: Director of Food Service  
E-mail: gahuffaker@wuesd.org  
Telephone: 661-758-7153

Bargaining Unit: Date: 03/01/2013  
Name: Wasco High School CSEA  
Representative: Diane Villagran  
Title: Chapter President  
Position: Support  
Comments:



# **DISTRICT INFORMATION**

Site Name: Wasco High School		
Summer School day at this site begins: 8:30 AM and ends: 12:00 PM		
Total Time: 3 hrs 30 min (Hrs/Min)		
Meals offered during regular school year: Breakfast <input checked="" type="checkbox"/> Lunch <input checked="" type="checkbox"/>		
Meal time at this site for the summer session begins: 12:00 PM and ends: 12:30 PM		
Check which condition below meets your circumstances:		
Condition ONE <input checked="" type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins: and ends:		
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins: and ends:		
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins: and ends:		
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Summer meal waivers must be received by the CDE Waiver Office no later than 60 days prior to the last regular meeting of the State Board of Education (SBE) and before the commencement of the summer school session for which the waiver is sought. Therefore, please have your completed summer school meal waiver request into the CDE Waiver Office by March 8, 2013 at the latest.

If you have questions regarding the attachments to the waiver or how to meet the waiver criteria, please contact Donna Reedy, School Nutrition Programs Analyst, Nutrition Services Division, at 916-327-5866 or by e-mail at [dreedy@cde.ca.gov](mailto:dreedy@cde.ca.gov).

<b>California Department of Education WAIVER SUBMISSION - Specific</b>
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CD Code: 1965169

Waiver Number: 12-2-2013    Active Year: 2013

Date In: 2/12/2013 11:42:59 AM

Local Education Agency: Wiseburn Elementary School District  
Address: 13530 Aviation Blvd.  
Hawthorne, CA 90250

Start: 6/24/2013

End: 7/19/2013

Waiver Renewal: Y

Previous Waiver Number: 39-1-2012-W-22    Previous SBE Approval Date: 5/9/2012

Waiver Topic: State Meal Mandate

Ed Code Title: Summer School Session

Ed Code Section: 49550

Ed Code Authority: 49548

Ed Code or CCR to Waive: Notwithstanding any other provision of law, each school district or county superintendent of schools maintaining any kindergarten or any of grades 1 to 12, inclusive, shall provide for each needy pupil one nutritionally adequate free or reduced-price meal during each schoolday, except for family day care homes that shall be reimbursed for 75 percent of the meals served.

Outcome Rationale: Ed Code Section 49550 requires that school districts provide a lunch for needy students every school day. Since providing lunches during summer school would result in a financial hardship for the District, we are requesting a waiver for summer school.

We are requesting the waiver because there is a summer lunch program within a ½ mile of Juan de Anza Elementary School – where our summer school program will be held.

Student Population: 2550

City Type: Suburban

Local Board Approval Date: 2/7/2013

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Debra Chow

Position: Food Service Clerk

E-mail: dchow@wiseburn.k12.ca.us

Telephone: 310-643-3025

Fax: 310-643-7659

# **DISTRICT INFORMATION**

Site Name: Juan de Anza Elementary School		
Summer School day at this site begins: 8:00 a.m. and ends: 11:55 a.m.		
Total Time: 3 hrs 55 mins (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch X		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE X	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins: and ends:		
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins: and ends:		
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins: and ends:		
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Summer meal waivers must be received by the CDE Waiver Office no later than 60 days prior to the last regular meeting of the State Board of Education (SBE) and before the commencement of the summer school session for which the waiver is sought. Therefore, please have your completed summer school meal waiver request into the CDE Waiver Office by March 8, 2013 at the latest.

If you have questions regarding the attachments to the waiver or how to meet the waiver criteria, please contact Donna Reedy, School Nutrition Programs Analyst, Nutrition Services Division, at 916-327-5866 or by e-mail at [dreedy@cde.ca.gov](mailto:dreedy@cde.ca.gov).



**California Department of Education  
WAIVER SUBMISSION - Specific**

CD Code: 4770516

Waiver Number: 27-3-2013 Active Year: 2013

Date In: 3/8/2013 4:09:45 PM

Local Education Agency: Yreka Union High School District  
Address: 400 Preece Way  
Yreka, CA 96097

Start: 6/17/2013 End: 7/19/2013

Waiver Renewal: N

Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: State Meal Mandate  
Ed Code Title: Summer School Session  
Ed Code Section: 49550  
Ed Code Authority: 49548

Ed Code or CCR to Waive: 49550 ~~(a) Notwithstanding any other provision of law, each school district or county superintendent of schools maintaining any kindergarten or any of grades 1 to 12, inclusive, shall provide for each needy pupil one nutritionally adequate free or reduced-price meal during each schoolday, except for family day care homes that shall be reimbursed for 75 percent of the meals served.~~

Outcome Rationale: We only have a two hour day summer school session.

Student Population: 912

City Type: Rural

Local Board Approval Date: 2/20/2013

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Toni Joling  
Position: District Bookkeeper  
E-mail: tjoling@yuhd.net  
Telephone: 530-842-2521 x402  
Fax: 530-842-1759

# **DISTRICT INFORMATION**

Site Name: Yreka High School		
Summer School day at this site begins: 06/17/2013 and ends: 07/19/13		
Total Time: 2 Hrs (Hrs/Min)		
Meals offered during regular school year: Breakfast <input checked="" type="checkbox"/> Lunch <input checked="" type="checkbox"/>		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input checked="" type="checkbox"/>

Site Name:		
Summer School day at this site begins: and ends:		
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins: and ends:		
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Site Name:		
Summer School day at this site begins: and ends:		
Total Time: (Hrs/Min)		
Meals offered during regular school year: Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/>		
Meal time at this site for the summer session begins: and ends:		
Check which condition below meets your circumstances:		
Condition ONE <input type="checkbox"/>	Condition TWO <input type="checkbox"/>	Condition THREE <input type="checkbox"/>

Summer meal waivers must be received by the CDE Waiver Office no later than 60 days prior to the last regular meeting of the State Board of Education (SBE) and before the commencement of the summer school session for which the waiver is sought. Therefore, please have your completed summer school meal waiver request into the CDE Waiver Office by March 8, 2013 at the latest.

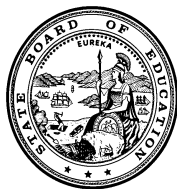
If you have questions regarding the attachments to the waiver or how to meet the waiver criteria, please contact Donna Reedy, School Nutrition Programs Analyst, Nutrition Services Division, at 916-327-5866 or by e-mail at [dreedy@cde.ca.gov](mailto:dreedy@cde.ca.gov).



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-08**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by seven local educational agencies to waive the State Testing Apportionment Information Report deadline of December 31 in the *California Code of Regulations*, Title 5, Section 11517.5(b)(1)(A) regarding the California English Language Development Test; or Title 5, Section 1225(b)(2)(A) regarding the California High School Exit Examination; or Title 5, Section 862(c)(2)(A) regarding the Standardized Testing and Reporting Program.

Waiver Numbers: Albany City Unified School District 18-2-2013  
Delano Union Elementary School District 87-1-2013  
Piedmont City Unified School District 91-1-2013  
San Bernardino Unified School District 64-1-2013  
San Diego Unified School District 8-1-2013  
Ukiah Unified School District 75-1-2013  
Ventura Unified School District 103-12-2012

☒ Action

☒ Consent

##### RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved all waiver requests since the deadline for submission of the State Testing Apportionment Information Reports was added to the *California Code of Regulations* (CCR), and the SBE Waiver Policy 08-#: State Testing Apportionment Informational Report Deadline (available at <http://www.cde.ca.gov/re/lr/wr/documents/statetesting.doc>).

##### SUMMARY OF KEY ISSUES

Regulations for the State Testing Apportionment Information Report, amended in 2005, include an annual deadline of December 31 for the return of the Apportionment Information Report for prior year testing for the California English Language Development Test (CELDT), the California High School Exit Examination (CAHSEE), and the Standardized Testing and Reporting (STAR) Program. The California Department of Education (CDE) sent letters in September 2005 announcing the new deadline in regulations to every local educational agency (LEA). This deadline was

enacted to speed the process of final reimbursement of testing costs to the LEAs. The LEAs filing for this waiver request missed the December 31 deadline for requesting reimbursement for the 2009–10, 2010–11, or 2011–12 fiscal years. CDE staff verified that these LEAs needed the waivers and had submitted reports after the deadline.

These LEAs are now aware of this important change in the timeline and understand that future reports must be submitted to the Assessment Development and Administration Division for reimbursement. Therefore, the CDE recommends the approval of this waiver request as required by regulation prior to final reimbursement.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *Education Code (EC) Section 33051(a)*, available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.**

**Authority for Waiver:** *EC* Section 33050

**Period of request:** various dates

**Period recommended:** various dates

**Local board approval date(s):** various dates

**Public hearing held on date(s):** various dates

**Bargaining unit(s) consulted on date(s):** various dates

**Name of bargaining unit/representative(s) consulted:** various

**Position of bargaining unit(s) (choose only one):**

☐ Neutral ☒ Support ☐ Oppose

**Public hearing advertised by (choose one or more):**

☒ posting in a newspaper ☒ posting at each school ☒ Web site, district office, library, or board agenda

**Objections raised (choose one):** ☒ None ☐ Objections are as follows:

### **FISCAL ANALYSIS (AS APPROPRIATE)**

If these waivers are approved, these seven LEAs will be reimbursed for the costs of the CELDT, the CAHSEE, or the STAR for the 2009–10, 2010–11, or 2011–12 school years. Total costs are indicated on Attachment 1, and the waiver requests from each LEA are included as Attachments 2 through 8.

## **ATTACHMENT(S)**

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- Attachment 1: Local Educational Agencies Requesting Waiver of State Testing Apportionment Information Report Deadline — May 2013 (1 Page)
- Attachment 2: Albany City Unified School District Waiver Request 18-2-2013 (2 Pages) (Original waiver request is signed and on file at the Waiver Office)
- Attachment 3: Delano Union Elementary School District Waiver Request 87-1-2013 (2 Pages) (Original waiver request is signed and on file at the Waiver Office)
- Attachment 4: Piedmont City Unified School District Waiver Request 91-1-2013 (2 Pages) (Original waiver request is signed and on file at the Waiver Office)
- Attachment 5: San Bernardino Unified School District 64-1-2013 (2 Pages) (Original waiver request is signed and on file at the Waiver Office)
- Attachment 6: San Diego Unified School District Waiver Request 8-1-2013 (2 Pages) (Original waiver request is signed and on file at the Waiver Office)
- Attachment 7: Ukiah Unified School District Waiver Request 75-1-2013 (2 Pages) (Original waiver request is signed and on file at the Waiver Office)
- Attachment 8: Ventura Unified School District Waiver Request 103-12-2012 (2 Pages) (Original waiver request is signed and on file at the Waiver Office)

**Local Educational Agencies Requesting Waiver of  
State Testing Apportionment Information Report Deadline — May 2013**

Local Educational Agency	Waiver Number	Period of Request	Test Report(s) Missing	Report(s) Submitted	Fiscal Year(s)	Reimbursement Amount	Union Position
Albany City Unified School District (SD)	18-2-2013	Requested: 7/1/2012 – 12/31/2012 Recommended: 7/1/2012 – 12/31/2012	Standardized Testing and Reporting Program (STAR)	Yes	2011-12	\$7,232.32	Support
Delano Union Elementary SD	87-1-2013	Requested: 7/20/2009 – 6/30/2011 Recommended: 7/1/2010 – 12/31/2011	California English Language Development Test (CELDT)	Yes	2009-10 2010-11	\$39,380.00	Support
Piedmont City Unified SD	91-1-2013	Requested: 1/1/2013 – 6/30/2013 Recommended: 7/1/2012 – 12/31/2012	CELDT, California High School Exit Examination (CAHSEE), STAR	Yes	2011-12	\$1,070.88	Support
San Bernardino Unified SD	64-1-2013	Requested: 12/31/2012 – 1/17/2013 Recommended: 7/1/2012 – 12/31/2012	CELDT, STAR	Yes	2011-12	\$986.82	Support
San Diego Unified SD	8-1-2013	Requested: 1/1/2013 – 2/1/2013 Recommended: 7/1/2012 – 12/31/2012	STAR	Yes	2011-12	\$1,021.20	Support
Ukiah Unified SD	75-1-2013	Requested: 12/31/2012 – 5/9/2013 Recommended: 7/1/2012 – 12/31/2012	CELDT	Yes	2011-12	\$7,725.00	Support
Ventura Unified SD	103-12-2012	Requested: 8/25/2010 – 6/16/2011 Recommended: 7/1/2011 – 12/31/2011	STAR	Yes	2010-11	\$34,208.26	Support

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0161127  
Year: 2013

Waiver Number: 18-2-2013

Active

Date In: 2/14/2013 11:14:15 AM

Local Education Agency: Albany City Unified School District  
Address: 1051 Monroe St.  
Albany, CA 94706

Start: 7/1/2012

End: 12/31/2012

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: State Testing Apportionment Report  
Ed Code Title: STAR  
Ed Code Section: CCR, Title 5, Section 862(c)(2)(A)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: [section 862(c)(2)(A) . . . postmarked by December 31 . . .]

Outcome Rationale: Documents regarding the submission of the STAR Apportionment Report were not received by the STAR District Testing Coordinator. The Superintendent's office has no record of receiving the required documents and notification. The STAR District Coordinator is new, and did not know to look for this report.

Student Population: 3805

City Type: Suburban

Public Hearing Date: 2/12/2013

Public Hearing Advertised: notice in a local paper, the local Patch and on the district's website

Local Board Approval Date: 2/12/2013

Committee/Council Reviewed By: School Site Councils  
Committee/Council Reviewed Date: 2/8/2013  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Marsha Brown  
Position: Director III - Student Services  
E-mail: mbrown@ausdk12.org  
Telephone: 510-558-3771



Bargaining Unit Date: 02/26/13

Name: Albany Teachers Association

Representative: Kerry Dunigan

Title: Teacher / Co-president

Position: In favor of the waiver

Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 1563404  
Year: 2013

Waiver Number: 87-1-2013

Active

Date In: 1/29/2013 12:24:24 PM

Local Education Agency: Delano Union Elementary School District  
Address: 1405 12th Ave.  
Delano, CA 93215

Start: 7/20/2009

End: 6/30/2011

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: State Testing Apportionment Report  
Ed Code Title: CELDT  
Ed Code Section: CCR, Title 5, Sec 11517.5 (b) (1) (A)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: N / A

CELDT – CCR, Title 5, Section 11517.5(b)(1)(A), the requirement to submit the State Testing Apportionment Information Report to the Assessment Division by ~~December 31~~ every year

Outcome Rationale: District failed to send in the CELDT Apportionment Information Reports for 2009-2010 and 2010-2011 by the December 31st deadline in those years in order to receive the reimbursements (see attached)

Student Population: 7700

City Type: Rural

Public Hearing Date: 1/8/2013

Public Hearing Advertised: Notice of Public Hearing, District Board Meeting Agenda

Local Board Approval Date: 1/8/2013

Committee/Council Reviewed By: Delano Union Elementary School District Board of Trustees  
Committee/Council Reviewed Date: 1/8/2013  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Martin Bans  
Position: Director of Human Resources  
E-mail: mbans@duesd.org  
Telephone: 661-721-5000 x131  
Fax: 661-721-5098

Bargaining Unit Date: February 5, 2013  
Name: Delano Union Elementary School Teachers Association  
Representative: Mark Kotch, Darrell Winger  
Title: President, Vice President  
Position: Support  
Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0161275  
Year: 2013

Waiver Number: 91-1-2013

Active

Date In: 1/29/2013 2:17:58 PM

Local Education Agency: Piedmont City Unified School District  
Address: 760 Magnolia Ave.  
Piedmont, CA 94611

Start: 1/1/2013

End: 6/30/2013

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: State Testing Apportionment Report

Ed Code Title: STAR, CAHSEE and CELDT

Ed Code Section: CCR, Title 5, Sec. 862(c)(2)(A); CCR, Title 5, Sec. 11517.5(b)(1)(A); CCR,  
Title 5, Sec. 1225(b)(2)(A)

Ed Code Authority: 33050

Ed Code or CCR to Waive: STAR - CCR, Section 862(c)(2)(A)...postmarked by December 31,  
2012

CELDT - CCR, Title 5, Section 11517.5(b)(1)(A)...postmarked by December 31, 2012

CAHSEE - CCR, Title 5, Section 1225(b)(2)(A)...postmarked by December 31, 2012

Outcome Rationale: Postmark deadline of 12/31/2012 was missed due to schools/offices closed for Winter Break. First available date for submission was the first day back to school on 1/7/2013. Request for this waiver is necessary in order for Piedmont USD to properly administer STAR, CELDT, and CAHSEE testing. Piedmont USD wishes to acknowledge the delay for submission of the Apportionment Information Reports was the responsibility of Piedmont USD. We thank you for your consideration of this request.

Student Population: 2602

City Type: Urban

Public Hearing Date: 1/23/2013

Public Hearing Advertised: Posting of Public Hearing at all school sites; electronic posting to all community subscribers

Local Board Approval Date: 1/23/2013

Committee/Council Reviewed By: Piedmont USD DELAC Committee

Committee/Council Reviewed Date: 1/16/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Michael Brady  
Position: Assistant Superintendent  
E-mail: mbrady@piedmont.k12.ca.us  
Telephone: 510-594-2608  
Fax: 510-654-7374

Bargaining Unit: Date: 01/15/2013  
Name: Association of Piedmont Teachers  
Representative: Harlan Mohagen  
Title: President  
Position: Support  
Comments:

Bargaining Unit: Date: 01/15/2013  
Name: CSEA, Chapter 60  
Representative: Terra Salazar  
Title: President  
Position: Support  
Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3667876  
Year: 2013

Waiver Number: 64-1-2013

Active

Date In: 1/15/2013 1:58:22 PM

Local Education Agency: San Bernardino City Unified School District  
Address: 2050 E. Pacific St.  
San Bernardino, CA 92404

Start: 12/31/2012

End: 1/17/2013

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: State Testing Apportionment Report

Ed Code Title: CELDT and STAR

Ed Code Section: CCR, Title 5, Section 862(c)(2)(A) and 11517.5(b)(1)(A)

Ed Code Authority: 33050

Ed Code or CCR to Waive: Late report.

CELDT – CCR, Title 5, Section 11517.5(b)(1)(A), the requirement to submit the State Testing Apportionment Information Report to the Assessment Division ~~by December 31~~ every year

STAR – CCR, Title 5, Section 862(c)(2)(A) ), the requirement to submit the State Testing Apportionment Information Report to the Assessment Division ~~by December 31~~ every year

Outcome Rationale: Was received during winter break and processed after January 3rd.

Student Population: 300

City Type: Urban

Public Hearing Date: 1/14/2013

Public Hearing Advertised: online, flyers

Local Board Approval Date: 1/14/2013

Committee/Council Reviewed By: charter school board

Committee/Council Reviewed Date: 1/14/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Veronica Pacheco  
Position: Operations Manager  
E-mail: v.pacheco@realjourney.org  
Telephone: 909-888-8390  
Fax: 909-888-8390

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3768338  
Year: 2013

Waiver Number: 8-1-2013

Active

Date In: 1/9/2013 8:35:00 AM

Local Education Agency: San Diego Unified School District  
Address: 4100 Normal St.  
San Diego, CA 92103

Start: 1/1/2013

End: 2/1/2013

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: State Testing Apportionment Report

Ed Code Title: STAR

Ed Code Section: 33050

Ed Code Authority: California SBE

Ed Code or CCR to Waive: Waiver of the deadline to be approved by the State Board of Education as stated in California *Education Code* Section 33050

Outcome Rationale: On December 10th I received a reminder to submit the apportionment report by the December 31st deadline. On December 14th, we mistakenly submitted the STAR School/Test Site Data Collection Form. We were informed of this mistake on December 20th, however, our administration office was closed for Winter Break - we did not receive notification of the error until January 2nd. As an independent charter school under the SDUSD that manages a conservative budget, we cannot afford to miss out on any opportunities for funding. It would be greatly appreciated if we are granted a waiver of the December 31st deadline.

Student Population: 400

City Type: Urban

Public Hearing Date: 1/8/2013

Public Hearing Advertised: Public Notice/Bulletin

Local Board Approval Date: 1/8/2013

Committee/Council Reviewed By: Keiller Leadership Academy Executive Board of Directors

Committee/Council Reviewed Date: 1/8/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N



Submitted by: Ms. Tertia Sartain  
Position: Academic Director  
E-mail: [tsartain@mykla.org](mailto:tsartain@mykla.org)  
Telephone: 619-263-9266 x3003  
Fax:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 2365615  
Year: 2013

Waiver Number: 75-1-2013

Active

Date In: 1/24/2013 12:42:14 PM

Local Education Agency: Ukiah Unified School District  
Address: 925 North State St.  
Ukiah, CA 95482

Start: 12/31/2012

End: 5/9/2013

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: State Testing Apportionment Report  
Ed Code Title: CELDT  
Ed Code Section: CCR, Title 5, Section 1157.5 (b)(1)(A)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: [Title 5, Section 1157.5 (b)(1)(A)...postmarked by December 31st...]

Outcome Rationale: As the new Director of Curriculum and Instruction, I did not submit the form prior to the December 31st deadline. The waiver is needed to attain the apportionment.

Student Population: 5519

City Type: Rural

Public Hearing Date: 1/17/2013

Public Hearing Advertised: The Board meeting Agenda was posted on the district website, displayed in the main office, school sites and notification by listserv.

Local Board Approval Date: 1/17/2013

Committee/Council Reviewed By: English Language Acquisition Committee at Yokayo  
Elementary School

Committee/Council Reviewed Date: 1/23/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Maria Armstrong  
Position: Director of Curriculum and Instruction  
E-mail: marmstrong@uusd.net  
Telephone: 707-472-5054  
Fax:

Bargaining Unit: Date: 01/23/2013  
Name: CSEA  
Representative: Michelle Aguilar  
Title: President  
Position: Support  
Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 5672652

Waiver Number: 103-12-2012

Active Year: 2012

Date In: 12/19/2012 12:23:48 PM

Local Education Agency: Ventura Unified School District  
Address: 255 West Stanley Ave., Ste. 100  
Ventura, CA 93001

Start: 8/25/2010

End: 6/16/2011

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: State Testing Apportionment Report

Ed Code Title: STAR

Ed Code Section: CCR, Title 5, Section 862(c)(2)(A)

Ed Code Authority: 33050

Ed Code or CCR to Waive: CCR, Title 5, Section 862(c)(2)(A)

Outcome Rationale: Ventura Unified missed the December 31, 2011, deadline to submit the State Testing Apportionment Information Report, and subsequently, was not reimbursed the apportionment to which the district is entitled. In these difficult fiscal times, Ventura Unified needs all funds that are due to the district, and are applying for this waiver so can be reimbursed. The reimbursed funds will go into the general fund to support programs for students.

Student Population: 17811

City Type: Small

Public Hearing Date: 12/11/2012

Public Hearing Advertised: Notice of Public Hearing published in Ventura County Star on 11/07/2012; Notice given at Board Meeting on 11/13/12.

Local Board Approval Date: 12/11/2012

Committee/Council Reviewed By: DELAC Committee

Committee/Council Reviewed Date: 12/17/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Rene Rickard  
Position: Director, Student Performance & Program Evaluation  
E-mail: rene.rickard@venturausd.org  
Telephone: 805-641-5000 x1061  
Fax: 805-653-7862

Bargaining Unit: Date: 12/04/2012  
Name: Ventura Classified Employees Association  
Representative: Teri Roots Title: President  
Position: Support  
Comments:

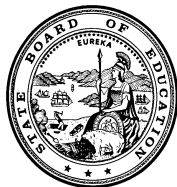
Bargaining Unit: Date: 11/08/2012  
Name: Ventura Unified Educator Association (VUEA)  
Representative: Stephen Blum  
Title: President  
Position: Support  
Comments:



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-10**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by **Harmony Union Elementary School District** to waive California *Education Code* Section 37202, the equity length of time requirement for transitional kindergarten and kindergarten programs at Harmony Elementary School.

Waiver Number: 72-1-2013

☒ Action

☒ Consent

##### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends approval with the following conditions: the local educational agency (LEA) will provide an update by June 1, 2013, to all families with students attending the school and all districts that have students attending the program on inter-district transfers, explaining the waiver of equity of minutes which is providing transitional kindergarten (TK) students with less minutes than traditional kindergarten, but more than the number of required minutes as stated in the *Education Code* (EC) Section 37202(a).

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In July, 2012, the State Board of Education (SBE) denied a request to waive California *Education Code* (EC) Section 48000(c) and (d), the requirement for admission to kindergarten for nine districts that had submitted requests to waive EC Section 48000(c) and (d). The SBE denied each district's request for a waiver of the requirement to offer a TK program with a unanimous vote.

In May, 2010, the SBE denied a request to waive EC Section 48000(a), the requirement for admission to kindergarten. However, no SBE discussion or action has occurred relating to waiving admission to TK.

In September 2007, the SBE approved to increase instructional time for all third grade students at South/West Park Elementary School and for all students in grades one through three at Gladys Poet-Christian Magnet School by extending the instructional day.

In January, 2007 the SBE approved a request by Escalon Unified School District for a renewal waiver of *Education Code (EC)* Section 37202(a), the equity length of time requirement, at four of the district's elementary schools: Dent, Collegeville, Farmington and Van Allen Elementary Schools.

This school meets the criteria for the SBE Streamlined Waiver Policy, <http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc>, achieving an Academic Performance Index (API) of 800 or above in the current scoring cycle and meeting growth targets in the current scoring cycle, both school wide and for all subgroups. Therefore this waiver has been scheduled for the consent calendar. Harmony Elementary School Union School District (HUESD) had an API of 875 in 2012.

## **SUMMARY OF KEY ISSUES**

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HUESD is requesting to waive California *Education Code (EC)* Section 37202, the equity length of time requirement for TK and kindergarten programs. The California EC, Section 37202 requires that all students at a given grade level in a district receive "an equal length" of instructional time. The minimum length of instructional time that must be offered to constitute a school day for kindergarten students is 180 minutes. The maximum school day in kindergarten is four hours (EC 46110). The waiver to have fewer minutes in TK than the traditional kindergarten is an educational decision that the teachers and administrators of HUESD believe is developmentally appropriate for the age of the TK students. The superintendent has stated that the parents and staff of the school are in full agreement that this shorter length of day is in the best interests of these young students which is why they are requesting a waiver of California *Education Code (EC)*, Section 37202. The TK students served by the HUESD are receiving 190 instructional minutes, which is more than the minimum instructional time requirement. TK students are also staying to receive lunch at school, adding additional minutes to their day. Harmony Elementary is a small kindergarten through grade two school (65 students enrolled in 2011-12). The school is also accepting students for the TK program from neighboring schools and districts who do not have the means to provide TK.

HUESD is not a participant in extended-day kindergarten classes that are operated as part of an early primary program (pursuant to EC 8970-8974), which allows kindergarten to exceed the four-hour maximum instructional day otherwise applicable to them (pursuant to EC 46111). The longer kindergarten day was a local school board decision.

The HUESD is located in Occidental, California, and a rural area on the northern coast with a total population of 1,115. It is a small rural two-school district with a total of 213 students, including a kindergarten classroom with 20 students and a TK classroom with 19 students. The TK class has several students attending from neighboring districts as



well. The TK students attend school daily for 190 minutes and the traditional kindergarten students attend for 320 minutes for four days and 250 minutes one day. As the district established TK for the first time this year, the teachers and the parents of TK students determined that the extended day was too long for the younger students and a shorter day was implemented. The district was informed later in the year by the local county office that the attendance time for TK had to be equal to that of traditional kindergarten. They called the CDE and this information was confirmed. The district leadership and parents agree that the shorter day is developmentally appropriate for the TK students.

The HUESD admitted all students to the TK class whose fifth birthday was after September 1, 2013. They chose not to use the "phase-in" model as provided in the EC section 48000. There are no students in the TK class who have their fifth birthday prior to September 1, 2013.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a),** available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.

**Demographic Information:** Harmony Union Elementary School District has a student population of 213 and is located in a rural city in Sonoma County.

**Authority for Waiver:** EC Section 33050

**Period of request:** August 29, 2012, through June 12, 2013 2013 (requested)  
August 29, 2012, through June 12, 2013 (recommended)

**Local board approval date(s):** 1/16/2013

**Public hearing held on date(s):** 1/16/2013

**Bargaining unit(s) consulted on date(s):** 12/12/2012

**Name of bargaining unit/representative(s) consulted:** Heather Figueroa, President, Harmony Union Teachers Association

**Position of bargaining unit(s) (choose only one):**

☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

**Public hearing advertised by (choose one or more):**

☐ posting in a newspaper ☐ posting at each school ☒ other (posted in three places and on the schools' website)

**Advisory committee(s) consulted: Harmony Union Elementary School Board**

**Objections raised (choose one):** ☒ None    ☐ Objections are as follows:

**Date(s) consulted:** 1/16/2013

**FISCAL ANALYSIS (AS APPROPRIATE)**

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Approval of this waiver would have no known fiscal impact.

**ATTACHMENT(S)**

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Attachment 1: Harmony Union Elementary School District General Waiver Request  
(2 pages) (Original waiver request is signed and on file in the Waiver  
Office)

<b>California Department of Education WAIVER SUBMISSION - General</b>
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CD Code: 4970730  
Year: 2013

Waiver Number: 72-1-2013

Active

Date In: 1/23/2013 3:12:21 PM

Local Education Agency: Harmony Union Elementary School District  
Address: 1935 Bohemian Hwy.  
Occidental, CA 95465

Start: 8/29/2012

End: 6/12/2013

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Equity Length of Time  
Ed Code Title: Equity Length of Time  
Ed Code Section: 37202  
Ed Code Authority: 33050-33053

Ed Code or CCR to Waive: (a) Except if a school...[the governing board or a school district shall maintain all of the elementary day schools established by it for an equal length of time during the school year] and all of the...

Outcome Rationale: Our school (Harmony Elementary) has a transitional kindergarten and a regular kindergarten. The TK has 19 students and the regular K has 21, The TK students attend school daily for 190 minutes and the regular K students attend for 320 minutes four days per week and 250 minutes one day. As we established the TK this year for the first time, it was determined by the teacher and parents that the extended day was too long for the younger children.

Student Population: 213

City Type: Rural

Public Hearing Date: 1/16/2013

Public Hearing Advertised: Posted in 3 places and on the school's web site.

Local Board Approval Date: 1/16/2013

Committee/Council Reviewed By: School Site Council  
Committee/Council Reviewed Date: 1/16/2013  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Stephen Collins  
Position: Superintendent  
E-mail: [scollins@harmony.k12.ca.us](mailto:scollins@harmony.k12.ca.us)  
Telephone: 707-874-1205 x17  
Fax:

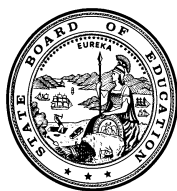
Bargaining Unit: Date: 12/12/2012  
Name: Harmony Union Teachers Association  
Representative: Heather Figueroa  
Title: President  
Position: Support  
Comments:



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-11**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

SUBJECT	<input checked="" type="checkbox"/> Action <input checked="" type="checkbox"/> Consent
Request by <b>Linden Unified School District</b> to waive California <i>Education Code</i> Section 48352(a) and <i>California Code of Regulations</i> , Title 5, Section 4701, to remove Glenwood Elementary School from the Open Enrollment List of "low-achieving schools" for the 2013–14 school year.	
Waiver Number: 69-1-2013	

#### RECOMMENDATION

☐ Approval ☐ Approval with conditions ☒ Denial

The California Department of Education (CDE) recommends denial of one waiver request for a school on the 2013-14 Open Enrollment list (Attachment 2) that does not meet the criteria for the State Board of Education (SBE) Streamlined Waiver Policy (available at <http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc>). Glenwood Elementary School has failed to meet their combined schoolwide and/or student group API Growth targets in four of the last five years. This waiver is recommended for denial because the educational needs of the pupils are not adequately addressed as required under *Education Code* (EC) 33051(a)(1).

#### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

This is the third time the SBE has heard a request from an LEA that does not meet the SBE streamlined waiver criteria to be removed from the 2013-14 Open Enrollment list. The SBE denied the non-streamlined waiver requests presented at the March 2013 meeting.

#### SUMMARY OF KEY ISSUES

The Linden Unified School District does not meet the criteria set forth in the SBE streamlined waiver policy, therefore the CDE recommends that Glenwood Elementary School remain on the Open Enrollment list. The SBE streamlined waiver policy requires the district to have an API score of 800 or above in the current scoring cycle. The Linden Unified School District has a 2012 Growth API score of 782. In the absence of a district API score of 800 or above, the SBE streamlined waiver policy requires the school to have an API score of 800 or above in the current scoring cycle and meet their API growth targets for all student groups. Glenwood Elementary School has a 2012 Growth API score of 754 and failed to meet three out of four 2012 API student group

growth targets. In the absence of a district Growth API score of 800 or above, or if the school fails to receive a Growth API score of 800 or above and does not meet its Growth API targets, the SBE streamlined waiver policy requires the school to make their API Growth targets in three of the last five years. Glenwood Elementary School has failed to meet their combined schoolwide and/or student group API Growth targets in four of the last five years.

The methodology used in creating the list of 1,000 lowest achieving schools, per the statute, resulted in some higher achieving schools being placed on the list while at the same time some schools with lower APIs were not included on the list. This was primarily due to the statutory provision that an LEA can have no more than 10 percent of its schools on the list.

Identification as a “low-achieving” school can have a significant educational, economic, and political impact on the school community. The label of “low-achieving” does not take into account the API scores for schools whose scores have risen or are maintained closer to the higher levels of achievement. The perception that the school is “low-achieving” may cause unwarranted flight from the school community and may negatively impact fiscal issues.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in the California EC 33051(a), available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.**

**Demographic Information:** San Joaquin County

**Authority for Waiver:** EC Section 33050

**Period of request:** July 1, 2012, to June 29, 2013

**Local board approval date(s):** January 16, 2013

**Public hearing held on date(s):** January 16, 2013

**Bargaining unit(s) consulted on date(s):** Association of Linden Educators  
Representative: Stan Smith, consulted on  
December 12, 2012

**Public hearing advertised by:** Notice posted at each school; United States Post Office – Linden, CA; Rinaldi’s Market – Linden, CA; and  
Linden Unified School District Office – Linden, CA

**Advisory committee(s) consulted:** Glenwood School Site Council

## **FISCAL ANALYSIS (AS APPROPRIATE)**

There is no statewide fiscal impact of waiver approval or denial.

**ATTACHMENT(S)**

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- Attachment 1: Schools Requesting a General Waiver from the 2013-14 Open Enrollment List (1 page)
- Attachment 2: Linden Unified School District General Waiver Request 69-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)



### Schools Requesting a General Waiver from the 2013-14 Open Enrollment List

Waiver #	County District School	2011 District Growth API	2011 School API Growth*		2011 API Target Met?	Met API Growth Targets (3 of last 5 yrs)	Meets SBE Waiver Policy (Yes/No)	Decile, Similar Schools Rank	Current PI Status	Position of Bargaining Unit/Date Consulted	Period of Request	Recommend for Approval (Yes/No)
69-1-2013	San Joaquin Linden Unified Glenwood Elementary	782	Schoolwide	754	No	No	No	3, 5	Year 5	Support 12/12/2012	<b>Requested:</b> 07/01/2012 to 06/29/2013	No
			Hispanic or Latino	731	No							
			White	781	No							
			SED	735	No							
			English Learners	715	Yes							

\*Only student groups that are numerically significant are included in this column.

SED – Socioeconomically Disadvantaged

Prepared by the California Department of Education

Revised: 03-15-2013 1:28 PM

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3968577

Waiver Number: 69-1-2013

Active Year: 2013

Date In: 1/21/2013 11:30:29 AM

Local Education Agency: Linden Unified School District  
Address: 18527 East Main St.  
Linden, CA 95236

Start: 7/1/2012

End: 6/29/2013

Waiver Renewal: Y

Previous Waiver Number: 3968577

Previous SBE Approval Date: 4/16/2012

Waiver Topic: Open Enrollment

Ed Code Title: Removal From the List of LEAs

Ed Code Section: 48352(a) and CCR Title 5 Section 4701

Ed Code Authority: 33050

Ed Code or CCR to Waive: 48352. For purposes of this article, the following definitions apply:

[ (a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:

(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.

(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:

(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools.

(B) Court, community, or community day schools shall not be included on the list.

(C) Charter schools shall not be included on the list.]

Outcome Rationale: Glenwood Elementary School's base API for 2012 was 753. While this represents a decrease of 15 points in our overall API, Glenwood Elementary has made continued progress with our various subgroups in both API and AYP. We experienced API increases with our English Learners subgroup from 679 in 2011 to 715 in 2012 (+36). Although there was a drop in the base API, a new administrator was assigned and we look forward to future improvements in student achievement.

Linden Unified School District is a small district consisting of two kindergarten through eighth grade elementary schools, one kindergarten through fourth grade school, one fifth through eighth grade school, a high school, and an alternative high school. We have identified more than 70 schools in two larger, adjacent districts that have lower API scores than Glenwood and are not included on the list. Glenwood Elementary has the sixth highest API score of any of the San Joaquin County schools on this list. Being placed on this list would cause irreparable harm as our community has very few choices within the district and leaving the district has the potential to be devastating financially. In addition, our school community is adjusting to a new

administrator and needs community confidence to help develop improved student success.

Community relations are strained as we are a small community and we are the only school within the district to be identified on this list. We continue to make positive gains in creating a school culture, which examines data and utilizes this data for the purpose of school improvement. Continued staff development is a strict priority for our district and Glenwood Elementary. Our teachers are life-long learners and continue to seek new and improved methods of meeting the needs of our students. Being placed on this list damages school morale and undermines the positive gains we have made.

Student Population: 287

City Type: Rural

Public Hearing Date: 1/16/2013

Public Hearing Advertised: Notice posted at each school; United States Post Office - Linden, CA; Rinaldi's Market - Linden, CA; and Linden Unified School District Office - Linden, CA

Local Board Approval Date: 1/16/2013

Committee/Council Reviewed By: Glenwood School Site Council

Committee/Council Reviewed Date: 12/11/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Wendy Heinze

Position: Principal

E-mail: wheinze@sjcoe.net

Telephone: 209-931-3229

Fax:

Bargaining Unit: Date: 12/12/2012

Name: Association of Linden Educators

Representative: Stan Smith

Title: President, Association of Linden Educators

Position: Support

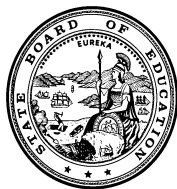
Comments:



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-12**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by **Colusa Unified School District** to waive a portion of California *Education Code* Section 44908, the requirement that a probationary employee who, in any one school year, has served for at least seventy-five percent of the number of days the regular schools of the district in which he is employed are maintained shall be deemed to have served a complete school year.

Waiver Number: 90-1-2013

☒ Action

☒ Consent

##### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That this retroactive waiver be granted for one employee only; in the future, Colusa Unified School District (USD) will inform all future part-time or job share employees of the provisions of *Education Code (EC)* 44908 and they will receive a year of credit only if they work seventy-five percent of the school days in a regular school year.

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education has heard three other waivers of this kind in November 2008 for Temecula Valley Unified School District (USD), January 2010 for Chino Valley USD and July 2010 for Old Adobe USD for several employees and each of the waivers were approved with conditions.

##### SUMMARY OF KEY ISSUES

The *EC* Section 44908 requires that a probationary employee work at least seventy-five percent of the number of days in the regular school year in which he is employed to be deemed to have served two complete school years for purposes of permanent tenure status.

Colusa USD is requesting to retroactively waive, with regard to one specific certificated employee regarding *EC* Section 44098, the requirement that a probationary employee who, in any one school year, has served for at least seventy-five percent of the number of days maintained by the school of the district in which he is employed, shall be deemed to have served a complete school year.

On February 18, 1999 the Colusa USD notified a certificated employee, that she had acquired tenure status beginning with the 1999-2000 school year. During the certificated employee's first year of employment she served seventy-five percent of the number of days that regular schools were in session and acquired one year of credit toward tenure. During the certificated employee's second year of employment she began as a full time second year probationary teacher, but took maternity leave during her second year of employment and did not work seventy-five percent of the number of days the regular schools were in session. The certificated employee returned to her employment during her third year on a shared contract and did not work seventy-five percent of the number of days the regular schools were in session and the Colusa USD mistakenly "granted" the certificated employee tenure believing she had met the requirements of *EC* Section 44098. Therefore, the certificated employee has continued to teach on a shared contract basis.

On February 18, 1999 the Colusa USD misinterpreted *EC* Section 44098 and assured the certificated employee that she had tenure. The certificated employee was told orally and in writing that she had completed the probationary period. The Colusa USD is requesting a waiver of *EC* Section 44098 to correct its inadvertent misapplication of *EC* Section 44098 and allow for the permanent tenure status of the certificated employee so that she is granted a complete year of service for the 1998-1999 school year even though she taught less than seventy-five percent of the number of days the regular schools were in session that year. The Colusa USD believes that this waiver request is in the best interest of the Colusa USD and the certificated employee and corrects a penalty incurred by the certificated employee through no fault of her own.

The Colusa Educators Association, the exclusive representative of all certificated employees of the Colusa USD supports the request and participated in the development of this waiver application. The Colusa USD Board of Trustees held a public hearing on January 15, 2013 and approved this waiver request.

The Colusa USD is requesting a retroactive waiver of *EC* Section 44098 to apply to this certificated employee only. If the waiver is approved, this certificated employee will be deemed to be to have served two complete school years for purposes of permanent tenure status.

The department recommends approval of this waiver with the condition that this retroactive waiver is granted for this certificated employee only; in the future, Colusa USD will inform all future part-time or job share employees of the provisions of *EC* Section 44098, and they will receive a year of credit only if they work seventy-five percent of the school days in a regular school year.

**Demographic Information:** Colusa USD has a student enrollment of 1,418 and is located in the town of Colusa in Colusa County.

**Authority for Waiver:** *EC* Section 33050

**Period of request:** July 1, 1998, to June 30, 1999 (requested)  
July 1, 1998, to June 30, 1999 (recommended)

**Local board approval date(s):** January 15, 2013

**Public hearing held on date(s):** January 15, 2013

**Bargaining unit(s) consulted on date(s):** January 3, 2013, Colusa Educators Association

**Name of bargaining unit/representative(s) consulted:** January 3, 2013, Colusa Educators Association, Pam Giuliano, President

**Position of bargaining unit(s) (choose only one):**

☐ Neutral ☒ Support ☐ Oppose

Comments (if appropriate):

**Public hearing advertised by (choose one or more):**

☐ posting in a newspaper ☒ posting at each school ☐ other (specify)

**Advisory committee(s) consulted:** Colusa School Board

**Objections raised (choose one):** ☒ None ☐ Objections are as follows:

**Date(s) consulted:** January 15, 2013

**FISCAL ANALYSIS (AS APPROPRIATE)**

There is no state-wide or local fiscal impact of waiver approval.

**ATTACHMENT(S)**

Attachment 1: General Waiver Request (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

**California Department of Education  
WAIVER SUBMISSION - General**

CD Code: 0661598  
Year: 2013

Waiver Number: 90-1-2013

Active

Date In: 1/29/2013 2:17:52 PM

Local Education Agency: Colusa Unified School District  
Address: 745 10th St.  
Colusa, CA 95932

Start: 7/1/1998

End: 6/30/1999

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Other Waivers

Ed Code Title: Teacher Tenure when Part-time

Ed Code Section: 44908

Ed Code Authority: 33050

Ed Code or CCR to Waive: This is a request by Colusa USD to waive a portion of CA Ed. Code section 44908, the requirement that a probationary employee who, in any one school year, has served for at least 75% of the number of days the regular schools of the District in which she is employed are maintained shall be deemed to have served a complete school year.

Outcome Rationale: On 2/18/99 the Colusa USD notified one certificated employee, Jill Boeger, that she had acquired tenure status beginning with the 1999/2000 school year. During Ms. Boeger's first year of employment she served 75% of the number of days that regular schools were in session and acquired one year of credit toward tenure. During Ms. Boeger's second year of employment she began as a full time second year probationary teacher, but took maternity leave during her second year of employment and did not work 75% of the number of days the regular schools were in session. Ms. Boeger returned to her employment during her third year on a shared contract and did not work 75% of the number of days the regular schools were in session and the District mistakenly "granted" Ms. Boeger tenure believing she had met the requirements of Ed. Code section 44908. Therefore, Ms. Boeger has continued to teach on a shared contract basis.

On 2/18/99 the District misinterpreted Ed. Code section 44908 and assured Ms. Boeger that she had tenure. Ms. Boeger was told orally and in writing that she had completed the probationary period. The District is requesting a waiver of Ed. Code section 44908 to correct its inadvertent misapplication of Ed. Code section 44908 and allow for the permanent tenure status of Ms. Boeger so that she is granted a complete year of service for the 1998/1999 school year even though she taught less than 75% of the number of days the regular schools were in session that year. The District believes that this waiver request is in the best interest of the District and Ms. Boeger and corrects a penalty incurred by Ms. Boeger through no fault of her own.

The Colusa Educators Association, the exclusive representative of all certificated employees of the Colusa Unified School District supports the request and participated in the development of this waiver application. The Board of Trustees held a public hearing on January 15, 2013 and approved this waiver request. Attached hereto is a 2/18/99 letter to Ms. Boeger notifying her that she had completed her probationary period and was granted tenure. Also attached is a 1/28/13 letter from Pam Giuliano, President of the Colusa Educators Association supporting this waiver request.

Student Population: 1418



City Type: Small

Public Hearing Date: 1/15/2013

Public Hearing Advertised: Regular Board Agenda Posted throughout the District.

Local Board Approval Date: 1/15/2013

Committee/Council Reviewed By: None.

Committee/Council Reviewed Date: 1/15/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Robert Thurbon

Position: Attorney for Colusa Unified School District

E-mail: [bthurbon@thurbonandmchaney.com](mailto:bthurbon@thurbonandmchaney.com)

Telephone: 916-636-1840

Fax: 530-458-4030

Bargaining Unit: Date: 01/03/2013

Name: Colusa Educators Association

Representative: Pam Giuliano

Title: President

Position: Support

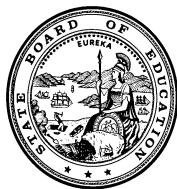
Comments:



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-13**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by two districts, to waive all portions of California *Education Code* sections 17473 and 17474 and portions of 17466, 17472, 17475, and one of the two districts to waive all portions of 17485, et seq.

Waiver Numbers: Charter Oak Unified School District 17-3-2013  
Walnut Valley Unified School District 18-3-2013

☒ Action

☒ Consent

##### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends approval with the following conditions: the proposals the governing boards determine to be most desirable shall be selected within 30 to 60 days of the public meeting when the proposals are received and the reasons for those determinations shall be identified in public sessions and included in the minutes of the meetings. Additionally, both districts must comply with *Education Code (EC)* sections 17464 and 17465 and Charter Oak Unified School District must comply with *Education Code* sections 17485, et seq.

The Charter Oak Unified School District and the Walnut Valley Unified School District meet the criteria for the State Board of Education (SBE) Streamlined Waiver Policy (available at <http://www.cde.ca.gov/re/lr/wr/documents/sbstreamlined.doc>), achieving a Growth Academic Performance Index (API) score of 800 or higher in the current cycle. See the last column on Attachment 1.

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE has approved all previous waivers regarding the bidding process and the sale or lease of surplus property. The districts are requesting to waive the same provisions for the sale or lease of surplus property.

##### SUMMARY OF KEY ISSUES

Under the provisions of *Education Code (EC)* sections 33050 through 33053, the districts request that specific portions of the *EC* relating to the sale or lease of district property be waived. The districts believe that they will benefit substantially from the potential ongoing cash flow that will be generated by negotiated lease arrangements. The districts state that the ability to offer the properties through Request for Proposals

will allow more flexibility and produce better outcomes. Additionally, the districts are requesting that requirement of sealed proposals and the oral bidding process be waived allowing the districts to determine what constitutes the most “desirable” bid and set their own terms and conditions for the lease of surplus property.

The Charter Oak Unified School District is requesting a waiver for the lease of one piece of surplus property that is approximately 9.31 acres. This property is known as the former Palmview Elementary School which is located at 1115 East Puente Street, Covina, CA. The property contains improved classroom, storage, and administration buildings, as well as athletic fields. For approximately 25 years the property has been leased to a private school.

The Walnut Valley Unified School District is requesting a waiver for the lease of one piece of surplus property that is approximately 7.07 acres. This property is located at 476 S. Lemon Avenue, Walnut, CA. The site is currently being used by the district as a temporary location for C.J. Morris Elementary School students while that school’s campus is being modernized. Prior to the students from Morris Elementary moving to the campus, the site was the district’s continuation high school and alternative education program. These students were returned to their home schools.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051a, available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.**

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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The flexibility in property disposition requested herein will allow the districts to maximize revenue. The applicant districts will financially benefit from the lease of the properties.

### **ATTACHMENT(S)**

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Attachment 1: Summary Table (1 page)

Attachment 2: General Waiver Request 17-3-2013 Charter Oak Unified School District  
Palmview Elementary School (5 pages)

Attachment 3: General Waiver Request 18-3-2013 Walnut Valley Unified School District  
Lemon Avenue Property (6 pages)

SUMMARY TABLE									
Waiver Number	School District	Property	Period of Request	Local Board Approval Date	Public Hearing Date	Bargaining Unit Consulted – Date	Position of Bargaining Unit	Advisory Committee Consulted - Date	Streamlined Waiver Policy - API
17-3-2013	Charter Oak Unified	Palmview Elementary	<b>Requested:</b> Jan. 10, 2013 – January 10, 2014  <b>Recommended:</b> Jan. 10, 2013 – January 10, 2014	January 17, 2013	January 17, 2013	California School Employees Association (CSEA) – January 18, 2013 Charter Oak Educators Association (COEA) – December 19, 2013	CSEA – Support COEA – Support	Administrative Council – January 10, 2013	Yes - 810
18-3-2013	Walnut Valley Unified	Lemon Avenue Property	<b>Requested:</b> March 14, 2013 – March 14, 2014  <b>Recommended:</b> March 14, 2013 – March 14, 2014	January 16, 2013	January 16, 2013	Walnut Chapter 446 California School Employees Association (CSEA) – January 25, 2013 Walnut Valley Educator’s Association (WVEA) – January 24, 2013	CSEA – Neutral WVEA - Support	District 7-11 Committee	Yes - 906

<b>California Department of Education</b> <b>WAIVER SUBMISSION - General</b>
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CD Code: 1964378  
Year: 2013

Waiver Number: 17-3-2013

Active

Date In: 3/6/2013 4:38:48 PM

Local Education Agency: Charter Oak Unified School District  
Address: 20240 East Cienega Ave.  
Covina, CA 91724

Start: 1/10/2013

End: 1/10/2014

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Sale or Lease of Surplus Property  
Ed Code Title: Lease of Surplus Property  
Ed Code Section: 17466, 17472, 17473, 17474 and 17475  
Ed Code Authority: 33050

Ed Code or CCR to Waive: Please see Attachment "A"

Outcome Rationale: Please see Attachment "B"

Student Population: 5436

City Type: Urban

Public Hearing Date: 1/17/2013

Public Hearing Advertised: San Gabriel Valley Tribune, 01/11/2013; Posted at schools, District Website

Local Board Approval Date: 1/17/2013

Committee/Council Reviewed By: Administrative Council

Committee/Council Reviewed Date: 1/10/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Kathy Perkins  
Position: Chief Business Officer  
E-mail: kperkins@cousd.net  
Telephone: 626-966-8331 x206  
Fax: 626-966-8331

Bargaining Unit: Date: 01/18/2013  
Name: California School Employees Association  
Representative: Greg Frotton  
Title: President, Chapter 309  
Position: Support  
Comments:

Bargaining Unit: Date: 12/19/2012  
Name: Charter Oak Educators Association  
Representative: Sharon Schriefer  
Title: Bargaining Chair  
Position: Support  
Comments:

## Attachment A

The Charter Oak Unified School District desires to waive the following sections and portions of the Education Code lined out below:

EC 17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it. ~~and shall specify the minimum price or rental and the terms upon which it will be sold or leased and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker out of the minimum price or rental. The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular~~  
place of meeting, at which sealed proposals to purchase or lease will be received and considered.

EC 17472. At the time and place fixed in the resolution for the meeting of the governing body, all ~~sealed~~ proposals which have been received shall, in public session, be ~~opened~~, examined, and declared by the board. Of the proposals submitted ~~which conform to all terms and conditions specified in the resolution of intention to sell or to lease and~~ which are made by responsible bidders, the proposal is the highest, after deducting therefrom the commission, if any, ~~to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.~~

EC 17473. Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the ~~resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any,~~  
~~to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted. Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by the offeror.~~

EC 17474. In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, ~~other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 17468 of this code,~~ the board shall allow a commission on the full amount for which the sale is confirmed.

~~One-half of the commission on the amount of the highest written proposal shall be paid to the broker who submitted it, and the balance of the commission on the purchase price to the broker who procured the purchaser to whom the sale was confirmed.~~

EC 17475. The final acceptance by the governing body may be made ~~either at the same session or at any adjourned session of the same board meeting held within 10 days next following.~~



## Attachment B

### Desired Outcome/ Rationale

The Charter Oak Unified School District desires to have the requested Education Code sections waived because the waiver of these sections will allow the District to maximize its return on the lease of the Property to the greatest extent possible. The District anticipates that the location and certain qualities of the Property will make it extremely attractive to potential lessees; however, the District's past experience with a public auction indicates that such a process will not allow the District to take advantage of the potential of the Property. Thus, the District would like to lease the Property via an alternative process.

### The Property

The District owns approximately 9.31 acres of land located at 1115 East Puente Street, Covina, California 91724 ("Property"). The Property was formerly a school site known as the District's Palmview Elementary School. The Property is currently improved with classroom, storage and administration buildings, as well as athletic facilities.

A map depiction of the Property is attached.

### Previous Bid Auctions

On March 3, 2011 the District adopted and approved a resolution approving the District's Advisory Committee's recommendations to lease the Property, declaring the Property surplus, and authorizing the offer of the entire Property for lease pursuant to California law. The District offered the entire Property for lease to public agencies pursuant to the surplus property procedures set forth in Education Code sections 17464-17465 and 17485 *et seq.* and to public benefit non-profit organizations pursuant to Education Code section 17464.

After concluding all required negotiation and notice periods with applicable agencies and organizations, completing title analyses, complying with posting and publication requirements, and preparing and disseminating bid package documents, the District conducted a public bid hearing for the lease of the Property on June 16, 2011. Despite the District's efforts, the District received no written bids or oral bids. No bidders even attended the bid hearing. The public bid procedure did not attract any meaningful interest in the Property.

Therefore, despite good faith efforts, the District was not able to lease the Property under the surplus property bid procedures set forth in Education Code section 17466 *et seq.* Following the unsuccessful bid, the District was able to license the Property.

### Proposed Process for Leasing the Property

The District is currently licensing the Property for a short term and desires to be able to lease the property through a Request for Proposals. Based on previous experience, consultations with experts, and on its knowledge of the surrounding community, the District has concluded that offering the Property for lease through a Request for Proposals, followed by further negotiations, will allow more flexibility and produce a better outcome.

In the current real estate market climate, a bid auction scenario is not able to attract serious and capable lessees to this Property. The District's previous experience with a lack of interest from bidders has shown the District that it needs the ability to be flexible and work with potential lessees

to create a valuable package. A waiver from the surplus property bid auction requirements will allow the District to do this. The District will work to develop a strategic plan for advertising and marketing the Property in order to solicit proposals from potential lessees interested in the Property.

## **Conclusion**

The lease of the Property will allow the District to continue to provide a high-quality educational experience for its students. The District will work closely with legal counsel to ensure that the process by which the Property is leased is fair and open. As indicated above, such a process will produce a better result than a second attempt at a bid auction for both the District and the community.

<b>California Department of Education</b> <b>WAIVER SUBMISSION - General</b>
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CD Code: 1973460  
Year: 2013

Waiver Number: 18-3-2013

Active

Date In: 3/6/2013 4:57:25 PM

Local Education Agency: Walnut Valley Unified School District  
Address: 880 South Lemon Ave.  
Walnut, CA 91789

Start: 3/14/2013

End: 3/14/2014

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Sale or Lease of Surplus Property  
Ed Code Title: Lease of Surplus Property  
Ed Code Section: 17466, 17472-75, 17485-95, 17497-99  
Ed Code Authority: 33050

Ed Code or CCR to Waive: The Walnut Valley Unified School District desires to waive the following sections and portions of the *Education Code* lined out below:

*EC 17466.* Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it. The district may solicit proposals from potential lessees. [and shall specify the minimum price or rental and the terms upon which it will be sold or leased and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker out of the minimum price or rental. The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.]

*EC 17472.* At the time and place fixed in the resolution for the meeting of the governing body, all [sealed] proposals which have been received shall, in public session, [be opened,] examined, and declared by the board. Of the proposals submitted [which conform to all terms and conditions specified in the resolution of intention to sell or to lease and] which are made by responsible bidders, the proposal which the Board determines represents the most desirable lease of the property shall be [is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally] accepted, [unless a higher oral bid is accepted or the board rejects all bids.]

[*EC 17473.* Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted. Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by

the offeror.]

[EC 17474. In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 17468 of this code, the board shall allow a commission on the full amount for which the sale is confirmed.

One-half of the commission on the amount of the highest written proposal shall be paid to the broker who submitted it, and the balance of the commission on the purchase price to the broker who procured the purchaser to whom the sale was confirmed.]

EC 17475. The final acceptance by the governing body may be made [either at the same session or] at any [adjourned session of the same] board meeting held within 30 to 60 days [next] following.

[EC 17485. The Legislature is concerned that school playgrounds, playing fields, and recreational real property will be lost for those uses by the surrounding communities even if those communities in their planning process have assumed that the properties would be permanently available for recreational purposes. It is the intent of the Legislature in enacting this article to allow school districts to recover their investment in surplus property while making it possible for other agencies of government to acquire the property and keep it available for playground, playing field or other outdoor recreational and open-space purposes.]

[EC 17486. This article shall apply to any schoolsite owned by a school district, which the governing board determines to sell or lease, and with respect to which the following conditions exist:

(a) Either the whole or a portion of the schoolsite consists of land which is used for school playground, playing field, or other outdoor recreational purposes and open-space land particularly suited for recreational purposes.

(b) The land described in subdivision (a) has been used for one or more of the purposes specified therein for at least eight years immediately preceding the date of the governing board's determination to sell or lease the schoolsite.

(c) No other available publicly owned land in the vicinity of the schoolsite is adequate to meet the existing and foreseeable needs of the community for playground, playing field, or other outdoor recreational and open-space purposes, as determined by the governing body of the public agency which proposes to purchase or lease land from the school district, pursuant to Section 17492.]

[EC 17487. As used in this article, "schoolsite" means a parcel of land, or two or more contiguous parcels, which is owned by a school district. "Governing board" means the governing board of the school district which owns the schoolsite.]

[EC 17488. The governing board of any school district may sell or lease any schoolsite containing land described in Section 17486, and, if the governing board decides to sell or lease such land, it shall do so in accordance with the provisions of this article.]

[EC 17489. (a) Notwithstanding Section 54222 of the Government Code, the governing board of a school district, before selling or leasing a schoolsite containing land described in Section 17486, excluding that portion of a schoolsite retained by the governing board of the school district pursuant to Section 17490, shall, if a charter school has not accepted an offer to purchase or lease the schoolsite pursuant to Section 17457.5, first offer to sell or lease that portion of the schoolsite consisting of land described in Section 17486, excluding that portion retained by the governing board of the school district pursuant to Section 17490, to the following public agencies in accordance with the following priorities:

(1) First, to any city within which the land may be situated.

- (2) Second, to any park or recreation district within which the land may be situated.
- (3) Third, to any regional park authority having jurisdiction within the area in which the land is situated.
- (4) Fourth, to any county within which the land may be situated.
- (b) The governing board of the school district shall have discretion to determine whether the offer shall be an offer to sell or an offer to lease.
- (c) An entity which proposes to purchase or lease a schoolsite offered by a school district shall notify the school district of its intention, in writing, within 60 days after receiving written notification from the school district of its offer to sell or lease.]

[EC 17490. In determining what portion of a schoolsite shall be offered for sale or lease pursuant to this article, the governing board may retain any part of the schoolsite containing structures or buildings, together with such land adjacent thereto which, as determined by the governing board, must be included in order to avoid reducing the value of that part of the schoolsite containing such structures or buildings to less than 50 percent of fair market value.]

[EC 17491. (a) Except as otherwise provided in subdivision (b) or (e), the price at which land described in Section 17486, excluding that portion of a schoolsite retained by the governing board pursuant to Section 17490, is sold pursuant to this article shall not exceed the school district's cost of acquisition, calculated as a pro rata cost of acquiring the entire parcel comprising the schoolsite, adjusted by a factor equivalent to the percentage increase or decrease in the cost of living from the date of purchase to the year in which the offer of sale is made, plus the cost of any improvement to the recreational and open-space portion of the land which the school district has made since its acquisition of the land. In no event shall the price be less than 25 percent of the fair market value of the land described in Section 17486 or less than the amount necessary to retire the share of local bonded indebtedness plus the amount of the original cost of the approved state aid applications on the property, excluding that portion of a schoolsite retained by the governing board pursuant to Section 17489, at the time of the offer.

These provisions shall apply to land that the school district acquired by gift or for consideration.

(b) A school district that offers a portion of a schoolsite for sale may offer such portion of property for sale at its fair market value, provided the school district offers an equivalent size alternative portion of that schoolsite for school playground, playing field, or other recreational and open-space purposes.

(c) Land which is leased pursuant to this article shall be leased at an annual rate of not more than 1/20th of the maximum sales price determined pursuant to subdivision (a) of this section, adjusted annually by a factor equivalent to the percentage increase or decrease in the cost of living for the immediately preceding year.

(d) The percentage of annual increase or decrease in the cost of living shall be the amount shown for January 1st of the appropriate year by the then current Bureau of Labor Statistics Consumers Price Index for the area in which the schoolsite is located.

(e) Whenever a school district closes a schoolsite and sells any land described in Section 17486 pursuant to this article to help pay only for capital outlay costs incurred directly as a result of the transfer of pupils from the closed school to another school or other schools of the district, the sale price of the property determined pursuant to subdivision (a) shall be increased by an amount equal to the additional costs incurred due to the school closure.]

[EC 17492. The governing body of a public agency which proposes to purchase or lease land from a school district pursuant to this article shall first make a finding, approved by a vote of two-thirds of its members, that public lands in the vicinity of the schoolsite are inadequate to meet the existing and foreseeable needs of the community for playground, playing field, or other outdoor recreational and open-space purposes.]

[EC 17493. (a) No public agency may purchase surplus school property from a school district pursuant to this article unless it has first adopted a plan for the purchase of surplus school property. The plan shall designate the surplus site or sites all or a portion of which the public agency desires to purchase at the price established pursuant to this article and shall designate at least 70 percent of the total surplus school acreage as property which the agency does not desire to purchase at the price established pursuant to this article. Where the plan indicates that the agency desires to purchase only a portion of a schoolsite at the price established pursuant to this article, it shall designate the percent of the property to be so purchased and provide a description of the general location of the property to be purchased, without designating the metes and bounds.

(b) Any property designated by public agencies as surplus schoolsites which the agencies do not wish to purchase, pursuant to subdivision (a), may be sold or leased by a school district without regard to this article.

(c) This section shall become operative on April 1, 1982.]

[EC 17494. Any land purchased or leased by a public agency pursuant to this article shall thereafter be maintained by such agency for playground, playing field, or other outdoor recreational and open-space uses. Land which prior to its sale or lease was used for playground or playing field purposes, shall continue to be maintained for such use by the acquiring agency, unless the governing body of that agency, by a two-thirds vote at a public hearing, determines that there is no longer a significant need for the land to be so used, in which case the land may thereafter be used for other outdoor recreational or open-space purposes. The school district may, at any time, reacquire the land at a price calculated in the manner prescribed in Section 17491, and the rights of reacquisition provided in this section shall be set forth in the deed or other instrument of transfer. If the governing board of the public agency determines that the land is no longer needed for playground, playing field, or other outdoor recreational and open-space purposes, the public agency shall offer the property to the school district for reacquisition under this section, and the school district shall notify the public agency within 60 days of its intent to reacquire the land. If the school district intends to sell the property within one year of the reacquisition date, the school district may finance the reacquisition of the land by lien against the proceeds to be obtained from the sale of the land by the school district. If the school district fails to give the public agency timely notice of its intent to reacquire the property, or if it fails to exercise its right of reacquisition, the public agency may use or dispose of the property.

For purposes of this section, "cost of acquisition," as used in Section 17491, shall refer to the cost at which the land was acquired by the public agency.]

[EC 17495. The sale or lease of land by a school district pursuant to this article shall be subject to, and governed by, the provisions of Article 2 (commencing with Section 17230) of Chapter 1 and Article 4 (commencing with Section 17455), except to the extent that the provisions of this article are inconsistent with a provision or provisions of Article 2 or 4, in which event the provisions of this article shall govern the sale or lease.]

[EC 17497. Notwithstanding the other provisions of this article, any school district governing board may designate not more than two surplus schoolsites as exempt from the provisions of this article for each planned schoolsite acquisition if the school district has an immediate need for an additional schoolsite and is actively seeking to acquire an additional site, and may exempt not more than one surplus schoolsite if the district is seeking immediate expansion of the classroom capacity of an existing school by 50 percent or more.

The exemption provided for by this section shall be inapplicable to any schoolsite which, under a lease executed on or before July 1, 1974, with a term of 10 years, was leased to a city of under 100,000 population for park purposes, was improved at city expense, and used for public park purposes.]

[EC 17498. A school district having a schoolsite described in Section 17486 may, as an alternative to sale or lease of the land pursuant to the foregoing provisions of this article, enter into other forms of agreement concerning the disposition of the property with any entity enumerated in Section 17489, in accordance with the priorities therein specified, including, but not limited to each of the following:

(a) An agreement to lease to such entity all or part of the schoolsite for a specified term, with an option to purchase such properties at the end of the term.

(b) An agreement granting to the entity a permanent open-space easement for recreational use over a portion of the leased site.

(c) If the lessee or a grantee under an agreement is an entity having zoning powers, an agreement requiring the entity to rezone any portion of the property retained by the school district in accordance with conditions specified in the agreement, to the extent that rezoning in accordance with the conditions is in compliance with applicable laws of the state.]

[EC 17499. (a) No more than 30 percent of the total surplus school acreage owned by a school district may be purchased or leased by public agencies pursuant to this article.

(b) The right of any public agency to purchase or lease surplus school property pursuant to this article shall exist only with respect to an amount of surplus school acreage within its jurisdictional boundaries which, when added to the surplus school acreage within its jurisdictional boundaries already purchased or leased pursuant to this article, will not exceed 30 percent of the surplus school acreage owned by the school district which is within the jurisdictional boundaries of that agency.

(c) For purposes of this section, "surplus school acreage" of a school district means property which is owned by a district and not used for school purposes, including, but not limited to, undeveloped property and property which contains school buildings that are not in use as a result of a school closure and which is not subject to any lease or agreement executed on or before July 1, 1974, for a term in excess of six years, in which any city containing a population of less than 100,000 had use of the property for park purposes on January 1, 1981, and had improved the property.

(d) Nothing in this section shall be construed to deny local agencies the opportunity to purchase at full market value all or part of the 70 percent of the total surplus school acreage which is not affected by this article.]

#### Outcome Rationale:

#### DESIRED OUTCOME/ RATIONALE

The Walnut Valley Unified School District desires to have the requested *Education Code* sections waived because the waiver of these sections will allow the District to maximize its return on the lease of the Property to the greatest extent possible. The District anticipates that the location and certain qualities of the Property will make it extremely attractive to potential lessees. The District would like to lease the Property via an alternative process, including an RFP process followed by negotiation of a suitable ground lease based upon a selected RFP proposal.

#### The Property

The District owns approximately 7.07 acres of land located at 476 S. Lemon Avenue, Walnut, California 91789 ("Property").

#### Proposed Process for Leasing the Property

The District desires to be able to lease the property through a Request for Proposals. The District has concluded that offering the Property for lease through a Request for Proposals,

followed by further negotiations, will allow more flexibility and produce a better outcome.

In the current real estate market climate, a bid auction scenario is not able to attract serious and capable lessees to this Property. The District needs the ability to be flexible and work with potential lessees to create a valuable package. A waiver from the surplus property requirements will allow the District to do this. The District will work to develop a strategic plan for advertising and marketing the Property in order to solicit proposals from potential lessees interested in the Property.

#### Conclusion

The lease of the Property will allow the District to continue to provide a high-quality educational experience for its students. The District will work closely with legal counsel to ensure that the process by which the Property is leased is fair and open. As indicated above, such a process will produce a better result than a bid auction for both the District and the community.

Student Population: 14663

City Type: Small

Public Hearing Date: 1/16/2013

Public Hearing Advertised: Published in San Gabriel Valley Tribune, Posted on District website, Posted at District Education Center, City Hall, Walnut and Diamond Bar Libraries, and all school sites

Local Board Approval Date: 1/16/2013

Committee/Council Reviewed By: District 7-11 Committee

Committee/Council Reviewed Date: 1/8/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Suparna Jain

Position: District Counsel

E-mail: sjain@aalrr.com

Telephone: 562-653-3557

Fax:

Bargaining Unit: Date: 01/25/2013

Name: Walnut Chapter 446 CSEA

Representative: Margarita Gutierrez Title: President

Position: Neutral

Comments:

Bargaining Unit: Date: 01/24/2013

Name: Walnut Valley Educator's Association

Representative: Larry Taylor

Title: President

Position: Support

Comments:



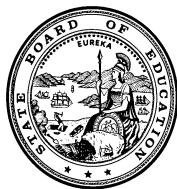




# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-14**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by **Folsom-Cordova Unified School District** to waive portions of *Education Code* sections 17518 and 17524, regarding a joint occupancy agreement between the district and potential partners.

Waiver Number: 28-2-2013

☒ Action

☒ Consent

##### RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

The California Department of Education recommends approval that the district pay some rental value for the use of the portion of the building to be occupied by the district at the Folsom's Hope Project and retain title to the property, and in order to expedite the joint occupancy process, allow the district to move forward without State Board of Education's approval or disapproval of the proposal.

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has never waived their approval of joint occupancy agreements nor has the SBE given approval for a district to pay rent for the use of buildings occupied by the district.

The Folsom-Cordova Unified School District meets the criteria for the State Board of Education (SBE) Streamlined Waiver Policy (available at <http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc>), achieving a Growth Academy Performance Index (API) score of 800 or higher in the current cycle. See the last column on Attachment 1.

##### SUMMARY OF KEY ISSUES

The Folsom-Cordova Unified School District wishes to enter into a joint occupancy arrangement with a number of potential partners. Under the provisions of *Education Code* (EC) sections 33050 through 33053, the Folsom-Cordova Unified School District requests that specific language related to joint occupancy agreements and State Board of Education approval be waived. The district believes that since they will be receiving a multimillion dollar structure at virtually no cost, it would be appropriate that the district pay some rental value for the use of the portion of the building to be occupied by the district. Waiving this section will also allow the district to hold title to the property.

Additionally, the district is seeking to waive portions of *EC* Section 17524, which requires submission of the joint occupancy proposal to the State Board of Education. The district is hoping to expedite the process of review by seeking this waiver.

The district believes that the Folsom's Hope Project will provide a significant benefit to the Folsom community by providing nutritional and medical assistance for low-income families.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a), available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.**

#### **FISCAL ANALYSIS (AS APPROPRIATE)**

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There is no statewide fiscal impact of waiver approval or denial.

#### **ATTACHMENT(S)**

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Attachment 1: Summary Table (1 page)

Attachment 2: General Waiver Request 28-2-2013 Folsom Cordova Unified School District Joint Occupancy (3 pages)

SUMMARY TABLE									
Waiver Number	School District	Property	Period of Request	Local Board Approval Date	Public Hearing Date	Bargaining Unit Consulted – Date	Position of Bargaining Unit	Advisory Committee Consulted	Streamlined Waiver Policy - API
28-2-2013	Folsom-Cordova Unified School District	Theodore Judah Elementary	<b>Requested:</b> April 30, 2013 – May 1, 2014  <b>Recommended:</b> April 30, 2013 – May 1, 2014	December 13, 2012	December 13, 2012	California School Employees Association (CSEA) – February 8, 2013	CSEA – Support	Pursuant to <i>EC</i> sections 17515 through 17526 regarding joint occupancy agreements, there is no provision for review of the proposal by an advisory committee or council. Counsel for the Folsom-Cordova Unified School District has stated there is no district council or committee to review, however as noted there was a local board meeting which was held on December 13, 2012 where the board authorized staff to submit this waiver.	Yes - 837

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3467330  
Year: 2013

Waiver Number: 28-2-2013

Active

Date In: 2/14/2013 4:22:24 PM

Local Education Agency: Folsom-Cordova Unified School District  
Address: 1965 Birkmont Dr.  
Rancho Cordova, CA 95742

Start: 4/30/2013

End: 5/1/2014

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Sale or Lease of Surplus Property  
Ed Code Title: Joint Occupancy  
Ed Code Section: 17524, 17518  
Ed Code Authority: 33051

Ed Code or CCR to Waive: Cal. Educ. Code § 17524

(a) After considering all proposals submitted, the governing board of the school district may, subject to Section 17525, select the plan or proposal that best meets the needs of the school district and enter into a contract incorporating that plan or proposal either as submitted or as revised by the governing board of the school district. [However, the governing board shall not approve any proposal nor enter into a lease or contract incorporating a proposal until the governing board has submitted the proposal to the State Board of Education, and the State Board of Education has approved the proposal. The State Board of Education shall, within 45 days of the date of submission, notify the governing board of its approval or disapproval.]

(b) The governing board shall require any person, firm, local governmental agency, as defined in paragraph (3) of subdivision (f) of Section 4420 of the Government Code, or corporation with whom it enters into a lease or agreement pursuant to this article to file one of the following, as determined by the governing board:

(1) A bond for the performance of the lease or agreement.

(2) An irrevocable letter of credit issued by a state or national bank or a federal or state credit union for the performance of the lease or agreement.

Cal. Educ. Code § 17518

(a) The governing board of a school district may let to any private person, firm, local governmental agency, as defined in paragraph (3) of subdivision (f) of Section 4420 of the Government Code, or corporation, any real property that belongs to the district if the instrument by which the property is let requires the lessee therein to construct on the demised premises, or provide for the construction thereon of, a building or buildings for the joint use of the school district and the private person, firm, local governmental agency, as defined in paragraph (3) of

subdivision (f) of Section 4420 of the Government Code, or corporation during the term of the agreement.

[(b) However, title to that portion of the building to be occupied by the private individual, firm, local governmental agency, as defined in paragraph (3) of subdivision (f) of Section 4420 of the Government Code, or corporation shall remain exclusively the personal property of the private party during the term of the lease and the title to that portion of the building to be occupied by the district shall vest in the district upon completion thereof and acceptance thereof by the school district. No rental fee or other charge for the use of the building shall be paid by the district.]

Outcome Rationale: The Folsom Cordova Unified School District ("District") is considering entering into a joint occupancy arrangement (the "Folsom's Hope Project") with a number of potential partners. The Folsom's Hope Project which would be constructed through this joint occupancy process would yield a significant benefit to the Folsom community by providing nutritional and medical assistance for low-income families. Portions of these facilities could be jointly occupied by the District. Through this process, the District's currently vacant and unimproved land at the Theodore Judah school site would be improved with new facilities to serve the community at virtually no cost to the District.

Although portions of the buildings would in large part be leased by the District's prospective joint occupancy partners, the District would like to have flexibility to structure the Parties' agreement in a manner which best meets the needs of the District. Given that the District will be a receiving a multimillion dollar structure at virtually no cost, it may be appropriate that the District pay some rental value for use of the portion of the building to be occupied by the District. Accordingly, the District is seeking a waiver of the provision of section 17518 which prohibits districts from paying a rental fee or other charge for the use of the building to be occupied by a District under joint occupancy.

Additionally, the District is seeking a waiver of portions of section 17524, which requires submission of the joint occupancy proposal to the State Board of Education. This provision has a 45 day turnaround, which is difficult due to the State Board of Education's meeting frequency and the time necessary for review. The District hopes to expedite the process of review by seeking this waiver, and eliminating the additional 45-day review period. This review period would cause a unwarranted delay on the project, which the District hopes to offer to the citizens of the District as soon as possible.

Student Population: 18312

City Type: Suburban

Public Hearing Date: 12/13/2012

Public Hearing Advertised: Physical publication, website publication.

Local Board Approval Date: 12/13/2012

Committee/Council Reviewed By: N/A.

Committee/Council Reviewed Date: 12/13/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. James Traber

Position: Attorney

E-mail: [jtraber@fagenfriedman.com](mailto:jtraber@fagenfriedman.com)

Telephone: 916-443-0000

Fax:

Bargaining Unit: Date: 02/08/2013

Name: CSEA

Representative: Robert Thomas

Title: President

Position: Support

Comments:

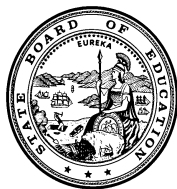




# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-15**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by **Montebello Unified School District** for a renewal to waive portions of California *Education Code* Section 15282, regarding term limits for membership of a Citizens' Oversight Committee for all construction bonds in the district.

Waiver Number: 10-2-2013

☒ Action

☒ Consent

##### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends three of the current five members of the Citizens' Oversight Committee (COC) be allowed to continue for an additional two-year term but with the following condition that the district will need to appoint two additional members by July 1, 2013 for a total of seven members. The waiver will end on or before January 30, 2015, so that California *Education Code (EC)* Section 33051(b) will not apply and the waiver will not become permanent.

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved all previous waivers regarding Citizens' Oversight Committees. The district is requesting to waive the same provision of the term limits of members of the Citizens' Oversight Committee.

##### SUMMARY OF KEY ISSUES

Under the provisions of *Education Code (EC)* sections 33050 through 33053, the Montebello Unified School District requests that specific language of *EC* Section 15282(a) relating to term limits for members of a COC be waived. The purpose of the COC is to inform the public concerning the expenditure of bond revenues. The COC reviews and reports on the proper expenditure of taxpayers' money for school construction. The COC holds public meetings and advises the public as to whether the district is in compliance with all of the statutory requirements of the bond and school construction projects.

The extension of time would allow the continued participation of these three experienced members and will aid the district in its efforts to successfully manage school construction and modernization funds. The district has stated that they have

made numerous attempts to recruit new members but have been unsuccessful. Additionally, the district has stated that they are at the end of the current bond program and that this is also making it difficult to recruit new members.

It should be noted that Assembly Bill 1199 (Brownley, Chapter 73, Statutes of 2012) went into effect January 1, 2013. This legislation extends the term of local bond citizens' oversight committee members from two consecutive two-year terms to three consecutive two-year terms.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a), available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.**

#### **FISCAL ANALYSIS (AS APPROPRIATE)**

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There is no statewide fiscal impact of waiver approval or denial.

#### **ATTACHMENT(S)**

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Attachment 1: COC members requesting extension (1page).

Attachment 2: Summary Table (1 page).

Attachment 3: Montebello Unified School District General waiver Request (2 pages).

## **Citizens' Oversight Committee Member Appointments**

The following members were originally appointed February 2005. Their current terms expired January 2013.

Willard Yamaguchi  
Representing: Community at large

Yvette Fimbres  
Representing: Community at large

The following member was originally appointed March 2005. His current term expired January 2013.

Darrell Heacock  
Representing: Business community

SUMMARY TABLE							
Waiver Number	School District	Period of Request	Local Board Approval Date	Public Hearing Date	Bargaining Unit Consulted – Date	Position of Bargaining Unit	Advisory Committee Consulted - Date
10-2-2013	Montebello Unified	<b>Requested:</b> February 1, 2013 – January 31, 2015  <b>Recommended:</b> February 1, 2013 – January 30, 2015	December 20, 2012	December 20, 2012	California School Employees Association (CSEA) – February 7, 2013  Montebello Teachers Association (MTA) – December 6, 2012	CSEA – Support  MTA – Support	Citizens Bond Oversight Committee – September 17, 2012 No Objections

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 1964808  
Year: 2013

Waiver Number: 10-2-2013

Active

Date In: 2/8/2013 8:54:41 AM

Local Education Agency: Montebello Unified School District  
Address: 123 South Montebello Blvd.  
Montebello, CA 90640

Start: 2/1/2013

End: 1/31/2015

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: School Construction Bonds  
Ed Code Title: Citizens Oversight Committee – Term Limits  
Ed Code Section: 15282(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: Section 15282(a). The citizens' oversight committee shall consist of at least seven members to serve for a term of two years without compensation ~~and for no more than three consecutive terms.~~

Outcome Rationale: The Montebello Unified School District ("District") requests that specific language in a subsection of the *EC*, relating to term limits for members of a Bond Oversight Committee, referred to in the *EC* as a "Citizens' Oversight Committee" be waived for the purpose of retaining the following three members of our current membership whose terms expire on January 30, 2013: Mr. Willard Yamaguchi, Ms. Yvette Fimbres, and Mr. Darrell Heacock for one additional two-year term. While numerous attempts to recruit new members to the Citizens' Bond Oversight Committee (CBOC) have been made, our efforts thus far, have been unsuccessful. Nonetheless, the District will continue to recruit members to the CBOC. Until such time that new members can be obtained, and in order to remain compliant with the *EC*, we are submitting this waiver. The current membership has diligently and effectively aided the District in ensuring compliance with the statutory requirements of Proposition 39 bond school construction projects. The approval of this waiver would allow for the continued participation of these experienced members and will aid the District in its efforts to successfully manage school construction and modernization funds. The District wants to retain the current membership for a period of two years, less one day so that *EC* 33051(c) will not apply. The length of the term would be from February 1, 2013 to January 31, 2015.

Student Population: 30471

City Type: Urban

Public Hearing Date: 12/20/2012

Public Hearing Advertised: Notice in newspaper, notice posted at school sites and District Office

Local Board Approval Date: 12/20/2012

Committee/Council Reviewed By: Citizens Bond Oversight Committee  
Committee/Council Reviewed Date: 9/17/2012  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Cheryl A. Plotkin  
Position: Assistant Superintendent, Business Services  
E-mail: plotkin\_cheryl@montebello.k12.ca.us  
Telephone: 323-887-3194  
Fax: 323-887-3059

Bargaining Unit: Date: 02/07/2013  
Name: California School Employees Association  
Representative: Lloyd Garrison  
Title: President  
Position: Support  
Comments:

Bargaining Unit: Date: 12/06/2012  
Name: Montebello Teachers Association  
Representative: Kathy Schlotz  
Title: Executive Director  
Position: Support  
Comments:

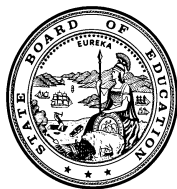


# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-16**





## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by **four school districts** to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to establish new trustee areas.

Waiver Numbers: Calaveras Unified 24-2-2013  
Lake Tahoe Unified 29-2-2013  
North Monterey County Unified 46-2-2013  
Menifee Union Elementary 30-3-2013

☒ Action

☒ Consent

##### RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The California State Board of Education (SBE) has approved numerous similar waiver requests in the past—the most recent approvals were for the Downey Unified School District (USD) in Los Angeles County and the Romoland Elementary School District in Riverside County at the March 2013 SBE meeting.

The Menifee Union Elementary School District (UESD) meets the criteria for the SBE Streamlined Waiver Policy, <http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc>, achieving an Academic Performance Index (API) of 800 or above in the current scoring cycle and meeting growth targets in the current scoring cycle, both schoolwide and for all subgroups. The Menifee UESD has a 2012 API of 848.

##### SUMMARY OF KEY ISSUES

Approval of this waiver request would eliminate the election requirement for approval of trustee areas and a by-trustee-area method of election for future governing board elections in the four school districts. Voters in the districts will continue to elect all board members—however, if the waiver is approved, all board members will be elected by trustee areas, beginning with the next board election.

A county committee on school district organization (county committee) has authority to approve or disapprove trustee areas and methods of election for school district governing board elections. Pursuant to California *Education Code (EC)* Section 5020, county committee approval of trustee areas and methods of election constitutes an

order to call a district-wide election on the county committee approved changes—this is the election requirement that will be eliminated if this waiver request is approved.

A number of districts in California are facing existing or potential litigation under the California Voting Rights Act of 2001 over at-large elections. To help protect themselves from potential litigation, the four school districts are taking action to establish trustee areas and adopt by-trustee-area methods of election for the governing boards. In order to establish these trustee areas and the methods of election as expeditiously as possible, the districts are requesting that the SBE waive the requirement that the trustee areas and the election methods be approved at district-wide elections.

These waiver requests have been reviewed by California Department of Education (CDE) staff and a determination has been made that: (1) the requests were initiated by action of the governing boards; and, (2) there was no significant public opposition to the requests at the public hearings held by the governing boards.

Only the election to establish trustee areas and the methods of election will be eliminated by approval of the waiver requests—voters in the school districts will continue to elect all board members. Moreover, approval of the waiver requests will not eliminate any existing legal rights of the currently seated board members.

The CDE finds that none of the grounds specified in *EC* Section 33051, which authorize denial of a waiver, exist. The CDE recommends that the SBE approve the requests by the four school districts to waive *EC* Section 5020 in its entirety and portions of *EC* sections 5019, 5021, and 5030.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a), available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.**

**Demographic Information:**

The Calaveras USD has a student population of 3,185 and is located in a rural setting in Calaveras County.

The Lake Tahoe USD has a student population of 3,793 and is located in a rural setting in El Dorado County.

The North Monterey County USD has a student population of 4,228 and is located in a rural setting in Monterey County.

The Menifee UESD has a student population of 8,611 and is located in a small city in Riverside County.

**Authority for Waiver:** *EC* Section 33050

**Period of request:**

Calaveras USD: July 1, 2013, to January 31, 2015 (requested and recommended)

Lake Tahoe USD: July 1, 2013, to June 30, 2015 (requested)  
July 1, 2013, to June 29, 2015 (recommended)

North Monterey County USD: February 21, 2013, to December 31, 2014 (requested  
and recommended)

Menifee UESD: May 10, 2013, to May 8, 2015 (requested and recommended)

**Local board approval date(s):**

Calaveras USD: November 20, 2012

Lake Tahoe USD: February 12, 2013

North Monterey County USD: February 7, 2013

Menifee UESD: January 22, 2013

**Public hearing held on date(s):**

Calaveras USD: November 20, 2012

Lake Tahoe USD: February 12, 2013

North Monterey County USD: February 7, 2013

Menifee UESD: January 22, 2013

**Bargaining unit(s) consulted on date(s):**

Calaveras USD—California School Employees' Association (CSEA): October 24, 2012;  
Calaveras Unified Educators' Association (CUEA): November 14, 2012.

Lake Tahoe USD—CSEA: December 10, 2012; South Tahoe Educators' Association  
(STEA): December 13, 2012.

North Monterey County USD—CSEA: January 31, 2013; American Federation of  
Teachers (AFT): January 31, 2013.

Menifee UESD—Menifee Council of Classified Employees (MCCE): January 9, 2013.;  
Menifee Teachers' Association (MTA): December 17, 2012.

**Name of bargaining unit/representative(s) consulted:**

Calaveras USD—CSEA: Terri Henderson, President; CUEA: Karen Wallace, President.

Lake Tahoe USD—CSEA: Bernadette Santana, President, and Carlo Tarantola, Labor  
Relations Representative; STEA: Jody Dayberry, President.

North Monterey County USD—CSEA: Erika Linares, President; AFT: Kelly Moore,  
President.

Menifee UESD—MCCE: Frances Beruman, President; MTA: MaryAnn Jacobs, President.

**Position of bargaining unit(s) (choose only one):**

Calaveras USD and Lake Tahoe USD:

☐ Neutral ☒ Support ☐ Oppose

North Monterey County USD and Menifee UESD:

☒ Neutral ☐ Support ☐ Oppose

**Public hearing advertised by (choose one or more):**

Calaveras USD and Lake Tahoe USD:

☐ posting in a newspaper ☒ posting at each school ☒ other (specify):

Calaveras USD: Posted on district website and sent to the newspaper and radio stations. Lake Tahoe USD: Posted on district website and at the district Education Center. Notification was provided at the school board meeting of January, 22, 2013, and in an e-mail to the community.

**Public hearing advertised by (choose one or more):**

North Monterey County USD and Menifee UESD:

☒ posting in a newspaper ☒ posting at each school ☒ other (specify):

Posted on district website.

**Advisory committee(s) consulted:**

Calaveras USD: All school site councils

Lake Tahoe USD: District Advisory Committee, District English Language Advisory Committee (DELAC), and Parent-Teachers' Association (PTA) Roundtable

North Monterey County USD: All school site councils, DELAC, and Monterey County Committee.

Menifee UESD: DELAC, all school site councils, English Language Advisory Committees (ELAC), PTAs.

**Objections raised (choose one):** ☒ None ☐ Objections are as follows:

**Date(s) consulted:**

Calaveras USD: October 30, 2012

Lake Tahoe USD: February 14, 2013

North Monterey County USD: School site councils, DELAC: January 31, 2013; Monterey County Committee: February 20, 2013.

Menifee UESD: DELAC: January 16, 2013; School site councils, ELACs, PTAs: various dates between November 29, 2012, and January 22, 2013.

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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Approval of the waiver request will not have negative fiscal effects on any local or state agency. Failure to approve the waiver request will result in the additional costs to the district for a district-wide election.

## **ATTACHMENT(S)**

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- Attachment 1: Calaveras Unified School District (24-2-2013) General Waiver Request. (5 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 2: Lake Tahoe Unified School District (29-2-2013) General Waiver Request. (9 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 3: North Monterey County Unified School District (46-2-2013) General Waiver Request. (8 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 4: Menifee Union Elementary School District (30-3-2013) General Waiver Request. (10 pages) (Original waiver request is signed and on file in the Waiver Office.)

<b>California Department of Education</b> <b>WAIVER SUBMISSION - General</b>
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CD Code: 0561564      Waiver Number: 24-2-2013      Active Year: 2013

Date In: 2/14/2013 12:32:54 PM

Local Education Agency: Calaveras Unified School District  
Address: 3304 B Highway 12  
San Andreas, CA 95249

Start: 7/1/2013      End: 1/31/2015

Waiver Renewal: N

Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: School District Reorganization  
Ed Code Title: Elimination of Election Requirement  
Ed Code Section: 5020, portions of 5019, 5021 and 5030  
Ed Code Authority: 33050

Ed Code or CCR to Waive: See attachment

Outcome Rationale: This is a waiver request of election requirements to change to by-trustee area elections. It is requested to expedite efforts by the Calaveras Unified School District ("District") to ensure compliance with the California Voting Rights Act (Elections code 14025 et seq.) ("CVRA"). By granting this waiver, the District will be able to implement its new "by-trustee area" election system for its November 2014 elections to reduce any potential liability under the CVRA. Due to the fact that the CVRA grants a prevailing plaintiff the right to reasonable attorneys' and expert witness fees, the District seeks to reduce the risk of costly litigation under the CVRA. By reducing the risk of such costly litigation in an expeditious and cost-effective manner, the District will be able to ensure cuts to necessary and valuable District student programs are not needed because claims being brought under the CVRA.

Student Population: 3185

City Type: Rural

Public Hearing Date: 11/20/2012

Public Hearing Advertised: Notice posted at each school on our district website and send to the newspaper and radio stations

Local Board Approval Date: 11/20/2012

Committee/Council Reviewed By: School Site Councils  
Committee/Council Reviewed Date: 10/30/2012  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Shirley Bell  
Position: Administrative Assistant  
E-mail: sbell@calaveras.k12.ca.us  
Telephone: 209-754-2339  
Fax: 209-754-2215

Bargaining Unit: Date: 11/14/2012  
Name: Calaveras Unified Educators' Association  
Representative: Karen Wallace  
Title: President  
Position: Support  
Comments:

Bargaining Unit: Date: 10/24/2012  
Name: California School Employees' Association  
Representative: Terri Henderson  
Title: President  
Position: Support  
Comments:

**ATTACHMENT A**  
**Calaveras Unified School District**  
**Waiver #24-02-2013**

**Education Code or California Code of Regulations section to be waived**

**Request to waive the following sections and portions of the Education Code lined out below:**

**5019.** (a) Except in a school district governed by a board of **education** provided for in the charter of a city or city and county, in any school district or community college district, the county committee on school district organization may establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or adopt one of the alternative methods of electing governing board members specified in Section 5030.

(b) The county committee on school district organization may establish or abolish a common governing board for a high school district and an elementary school district within the boundaries of the high school district. The resolution of the county committee on school district organization approving the establishment or abolition of a common governing board shall be presented to the electors of the school districts as specified in Section 5020.

(c) (1) A proposal to make the changes described in subdivision (a) or (b) may be initiated by the county committee on school district organization or made to the county committee on school district organization either by a petition signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters, by 3 percent or 100, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 to 10,000 qualified registered voters, by 1 percent or 250, whichever is less, of the qualified registered voters residing in a district in which there are 10,001 to 50,000 qualified registered voters, by 500 or more of the qualified registered voters residing in a district in which there are 50,001 to 100,000 qualified registered voters, by 750 or more of the qualified registered voters residing in a district in which there are 100,001 to 250,000 qualified registered voters, or by 1,000 or more of the qualified registered voters residing in a district in which there are 250,001 or more qualified registered voters or by resolution of the governing board of the district. For this purpose, the necessary signatures for a petition shall be obtained within a period of 180 days before the submission of the petition to the county committee on school district organization and the number of qualified registered voters in the district shall be determined pursuant to the most recent report submitted by the county elections official to the Secretary of State under Section 2187 of the Elections **Code**.

(2) When a proposal is made pursuant to paragraph (1), the county committee on school district organization shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee on school district organization shall approve or disapprove the proposal.

(d) If the county committee on school district organization approves pursuant to subdivision (a) ~~the rearrangement of the boundaries of trustee areas for a particular district, then the rearrangement of the trustee areas shall be effectuated for the next district election occurring at least 120 days after its approval, unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. The petition for an election shall be submitted to the county elections official within 60 days of the proposal's adoption by the county committee on school district organization. If the qualified registered voters approve pursuant to subdivision (b) or (c) the rearrangement of the boundaries to the trustee areas for a particular district, the rearrangement of the trustee areas shall be effective for the next district election occurring at least 120 days after its approval by the voters.~~

~~5020.— a) The resolution of the county committee approving a proposal to establish or abolish~~



trustee areas, to adopt one of the alternative methods of electing governing board members specified in Section 5030, or to increase or decrease the number of members of the governing board shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board.

—(b) If a petition requesting an election on a proposal to rearrange trustee area boundaries is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.

—(c) If a petition requesting an election on a proposal to establish or abolish trustee areas, to increase or decrease the number of members of the board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030 is filed, containing at least 10 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. Before the proposal is presented to the electors, the county committee on school district organization may call and conduct one or more public hearings on the proposal.

—(d) The resolution of the county committee approving a proposal to establish or abolish a common governing board for a high school and an elementary school district within the boundaries of the high school district shall constitute an order of election. The proposal shall be presented to the electors of the district at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient to place the issue on the ballot.

—(e) For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:

—"For the establishment (or abolition or rearrangement) of trustee areas in \_\_\_\_\_ (insert name) School District--Yes" and "For the establishment (or abolition or rearrangement) of trustee areas in \_\_\_\_\_ (insert name) School District--No."

—"For increasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from five to seven--Yes" and "For increasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from five to seven--No."

—"For decreasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from seven to five--Yes" and "For decreasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from seven to five--No."

—"For the election of each member of the governing board of the \_\_\_\_\_ (insert name) School District by the registered voters of the entire \_\_\_\_\_ (insert name) School District--Yes" and "For the election of each member of the governing board of the \_\_\_\_\_ (insert name) School District by the registered voters of the entire \_\_\_\_\_ (insert name) School District--No."

—"For the election of one member of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--Yes" and "For the election of one member of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--No."

—"For the election of one member, or more than one member for one or more trustee areas, of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters of the entire \_\_\_\_\_ (insert name) School District--Yes" and "For the election of one member, or more than one member for one or more trustee areas, of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected

by the registered voters of the entire \_\_\_\_\_ (insert name) School District--No."  
\_\_\_\_\_"For the establishment (or abolition) of a common governing board in the \_\_\_\_\_ (insert name) School District and the \_\_\_\_\_ (insert name) School District--Yes" and "For the establishment (or abolition) of a common governing board in the \_\_\_\_\_ (insert name) School District and the \_\_\_\_\_ (insert name) School District--No." If more than one proposal appears on the ballot, all must carry in order for any to become effective, except that a proposal to adopt one of the methods of election of board members specified in Section 5030 which is approved by the voters shall become effective unless a proposal which is inconsistent with that proposal has been approved by a greater number of voters. An inconsistent proposal approved by a lesser number of voters than the number which have approved a proposal to adopt one of the methods of election of board members specified in Section 5030 shall not be effective.

5021. (a) If a proposal for the establishment of trustee areas formulated under Sections **5019** and 5020 is approved by a majority of the voters voting at the election, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030. In the event two or more trustee areas are established at such election which are not represented in the membership of the governing board of the school district, or community college district the county committee shall determine by lot the trustee area from which the nomination and election for the next vacancy on the governing board shall be made.

(b) If a proposal for rearrangement of boundaries is approved by a majority of the voters voting on the measure, or by the county committee on school district organization when no election is required, and if the boundary changes affect the board membership, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030.

(c) If a proposal for abolishing trustee areas is approved by a majority of the voters voting at the election, the incumbent board members shall serve out their terms of office and succeeding board members shall be nominated and elected at large from the district.

5030. Except as provided in Sections 5027 and 5028, in any school district or community college district having trustee areas, the county committee on school district organization and the registered voters of a district, pursuant to Sections **5019** and 5020, respectively, may at any time recommend one of the following alternate methods of electing governing board members:

(a) That each member of the governing board be elected by the registered voters of the entire district.

(b) That one or more members residing in each trustee area be elected by the registered voters of that particular trustee area.

(c) That each governing board member be elected by the registered voters of the entire school district or community college district, but reside in the trustee area which he or she represents.

The recommendation shall provide that any affected incumbent member shall serve out his or her term of office and that succeeding board members shall be nominated and elected in accordance with the method recommended by the county committee.

Whenever trustee areas are established in a district, provision shall be made for one of the alternative methods of electing governing board members.

In counties with a population of less than 25,000, the county committee on school district organization or the county board of **education**, if it has succeeded to the duties of the county committee, may at any time, by resolution, with respect to trustee areas established for any school district, other than a community college district, amend the provision required by this section without additional approval by the electors, to require one of the alternate methods for electing board members to be utilized.

<b>California Department of Education</b> <b>WAIVER SUBMISSION - General</b>
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CD Code: 0961903      Waiver Number: 29-2-2013      Active Year: 2013

Date In: 2/15/2013 12:09:24 PM

Local Education Agency: Lake Tahoe Unified School District  
Address: 1021 Al Tahoe Blvd.  
South Lake Tahoe, CA 96150

Start: 7/1/2013      End: 6/30/2015

Waiver Renewal: N

Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: School District Reorganization  
Ed Code Title: Elimination of Election Requirement  
Ed Code Section: Portions of 5019, 5021, 5030, and all of 5020  
Ed Code Authority: 33050

Ed Code or CCR to Waive: See Attachment A

Outcome Rationale: See Attachment B

Student Population: 3793

City Type: Rural

Public Hearing Date: 2/12/2013

Public Hearing Advertised: Notice posted at each school, Ed. Center, & District web site. Also announced at school board meeting of 1/22/13 and in an email to community.

Local Board Approval Date: 2/12/2013

Committee/Council Reviewed By: District Advisory Committee, District English Language  
Advisory Committee, PTA Roundtable  
Committee/Council Reviewed Date: 2/14/2013  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Angie Keil  
Position: Exec. Assistant to Superintendent / P.I.O.  
E-mail: akeil@ltusd.org  
Telephone: 530-541-2850 x225  
Fax: 530-541-5930

Bargaining Unit: Date: 12/13/2012  
Name: South Tahoe Educators' Association  
Representative: Jodi Dayberry  
Title: STEA President  
Position: Support  
Comments:

## ATTACHMENT A

### Education Code or California Code of Regulations sections to be waived

The Lake Tahoe Unified School District desires to waive the following sections and portions of sections of the Education code lined out below:

#### Education Code

#### Establishment of trustee areas; common governing board

EC 5019

(a) Except in a school district governed by a board of education provided for in the charter of a city or city and county, in any school district or community college district, the county committee on school district organization may establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or adopt one of the alternative methods of electing governing board members specified in Section 5030.

(b) The county committee on school district organization may establish or abolish a common governing board for a high school district and an elementary school district within the boundaries of the high school district. The resolution of the county committee on school district organization approving the establishment or abolition of a common governing board shall be presented to the electors of the school districts as specified in Section 5020.

(c) (1) A proposal to make the changes described in subdivision (a) or (b) may be initiated by the county committee on school district organization or made to the county committee on school district organization either by a petition signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters, by 3 percent or 100, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 to 10,000 qualified registered voters, by 1 percent or 250, whichever is less, of the qualified registered voters residing in a district in which there are 10,001 to 50,000 qualified registered voters, by 500 or more of the qualified registered voters residing in a district in which there are 50,001 to 100,000 qualified registered voters, by 750 or more of the qualified registered voters residing in a district in which there are 100,001 to 250,000 qualified registered voters, or by 1,000 or more of the qualified registered voters residing in a district in which there are 250,001 or more qualified registered voters or by resolution of the governing board of the district. For this purpose, the necessary signatures for a petition shall be obtained within a period of 180 days before the submission of the petition to the county committee on school district organization and the number of qualified registered voters in the district shall be determined pursuant to the most recent report submitted by the county elections official to the Secretary of State under Section 2187 of the Elections Code.

(2) When a proposal is made pursuant to paragraph (1), the county committee on school district organization shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee on school district organization shall approve or disapprove the proposal.

(d) If the county committee on school district organization approves pursuant to subdivision (a) ~~the rearrangement of the boundaries of trustee areas for a particular district, then the rearrangement of the trustee areas shall be effectuated for the next district election occurring at least 120 days after its approval, unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. The petition for an election shall be submitted to the county elections official within~~

~~60 days of the proposal's adoption by the county committee on school district organization. If the qualified registered voters approve pursuant to subdivision (b) or (c) the rearrangement of the boundaries to the trustee areas for a particular district, the rearrangement of the trustee areas shall be effective for the next district election occurring at least 120 days after its approval by the voters.~~

(Amended by Stats. 2006, Ch. 126, Sec. 1)

Reference:  
Education Code 5020  
Education Code 5030  
Elections Code 2187

**Education Code**  
**~~Election to increase, decrease or abolish trustee areas~~**

**EC 5020**

~~(a) The resolution of the county committee approving a proposal to establish or abolish trustee areas or to increase or decrease the number of members of the governing board shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board.~~

~~(b) If a petition requesting an election on a proposal to rearrange trustee area boundaries is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.~~

~~(c) If a petition requesting an election on a proposal to establish or abolish trustee areas, to increase or decrease the number of members of the board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030 is filed, containing at least 10 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.~~

~~Before the proposal is presented to the electors, the county committee on school district organization may call and conduct one or more public hearings on the proposal.~~

~~(d) The resolution of the county committee approving a proposal to establish or abolish a common governing board for a high school and an elementary school district within the boundaries of the high school district shall constitute an order of election. The proposal shall be presented to the electors of the district at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.~~

~~(e) For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:~~

~~"For the establishment (or abolition or rearrangement) of trustee areas in \_\_\_\_\_ (insert name) School District--Yes" and "For the establishment (or abolition or rearrangement) of trustee areas in \_\_\_\_\_ (insert name) School District--No."~~

~~"For increasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from five to seven--Yes" and "For increasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from five to seven--No."~~

~~"For decreasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from seven to five--Yes" and "For decreasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from seven to five--No."~~

~~"For the election of each member of the governing board of the \_\_\_\_\_ (insert name) School District by the registered voters of the entire \_\_\_\_\_ (insert name) School District--Yes" and "For the election of each member of the governing board of the \_\_\_\_\_ (insert name) School District by the registered voters of the entire \_\_\_\_\_ (insert name) School District--No."~~

~~"For the election of one member of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--Yes" and "For the election of one member of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--No."~~

~~"For the election of one member, or more than one member for one or more trustee areas, of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters of the entire \_\_\_\_\_ (insert name) School District--Yes" and "For the election of one member, or more than one member for one or more trustee areas, of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters of the entire \_\_\_\_\_ (insert name) School District--No."~~

~~"For the establishment (or abolition) of a common governing board in the \_\_\_\_\_ (insert name) School District and the \_\_\_\_\_ (insert name) School District--Yes" and "For the establishment (or abolition) of a common governing board in the \_\_\_\_\_ (insert name) School District and the \_\_\_\_\_ (insert name) School District--No."~~

~~If more than one proposal appears on the ballot, all must carry in order for any to become effective, except that a proposal to adopt one of the methods of election of board members specified in Section 5030 which is approved by the voters shall become effective unless a proposal which is inconsistent with that proposal has been approved by a greater number of voters. An inconsistent proposal approved by a lesser number of voters than the number which have approved a proposal to adopt one of the methods of election of board members specified in Section 5030 shall not be effective.~~

~~(Amended by Stats. 2005, Ch. 344, Sec. 2.)~~

Reference:  
Education Code 5030

**Education Code**  
**Establishment and abolishment of trustee areas**

EC 5021

(a) If a proposal for the establishment of trustee areas formulated under Sections 5019 and 5020 is approved ~~by a majority of the voters voting at the election~~, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030. In the event two or more trustee areas are established ~~at such election~~ which are not represented in the membership of the governing board of the school district, or community college district the county committee shall determine by lot the trustee area from which the nomination and election for the next vacancy on the governing board shall be made.

(b) If a proposal for rearrangement of boundaries is approved ~~by a majority of the voters voting on the measure, or by~~ the county committee on school district organization when no election is required, and if the boundary changes affect the board membership, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030.

(c) If a proposal for abolishing trustee areas is approved ~~by a majority of the voters voting at the election~~, the incumbent board members shall serve out their terms of office and succeeding board members shall be nominated and elected at large from the district.

(Amended by Stats. 1980, Ch. 1287, Sec. 4.)

Reference:  
Education Code 5019  
Education Code 5020  
Education Code 5030

**Education Code**  
**Alternative methods of electing board members**

EC 5030

Except as provided in Sections 5027 and 5028, in any school district or community college district having trustee areas, the county committee on school district organization and the registered voters of a district, pursuant to Sections 5019 and 5020, respectively, may at any time recommend one of the following alternate methods of electing governing board members:

(a) That each member of the governing board be elected by the registered voters of the entire district.

(b) That one or more members residing in each trustee area be elected by the registered voters of that particular trustee area.

(c) That each governing board member be elected by the registered voters of the entire school district or community college district, but reside in the trustee area which he or she represents.

The recommendation shall provide that any affected incumbent member shall serve out his or her term of office and that succeeding board members shall be nominated and elected in accordance with the method recommended by the county committee.



Whenever trustee areas are established in a district, provision shall be made for one of the alternative methods of electing governing board members.

~~In counties with a population of less than 25,000~~, the county committee on school district organization or the county board of education, if it has succeeded to the duties of the county committee, may at any time, by resolution, with respect to trustee areas established for any school district, other than a community college district, amend the provision required by this section without additional approval by the electors, to require one of the alternate methods for electing board members to be utilized.

(Amended by Stats. 1992, Ch. 350, Sec. 3.)

Reference:

Education Code 5019

Education Code 5020

Education Code 5027

Education Code 5028

## **Attachment B**

### **Desired Outcome/ Rationale**

The Lake Tahoe Unified School District desires to have the requested Education Code sections waived because the waiver of these sections will allow the District to successfully adopt trustee areas and establish a by-trustee election process as expeditiously as possible, thereby enabling the District to avoid litigation resulting from its current at-large election process for electing its governing board members.

It is imperative that the District adopt trustee areas and complete the implementation process without delay and without interference because like many of the school districts that have been threatened with lawsuits under the California Voting Rights Act of 2001 ("CVRA"), the District currently utilizes an at-large election process to elect its governing board members. The District's failure to successfully adopt and implement trustee areas and a by-trustee area election process leaves it vulnerable to such litigation in which the District would be exposed to potentially having to pay significant attorneys' fees to plaintiffs, which would pose an undue hardship and extreme detriment to the District and its students.

### **CVRA History**

The California Legislature enacted the California Voting Rights Act of 2001 (see California Elections Code §§ 14025-14032). This legislation makes all at-large election systems in California for cities, school districts and special districts vulnerable to legal attack, largely on proof of racially polarized voting, regardless of whether a majority district can be formed and, under the interpretation adopted by plaintiffs in other pending CVRA cases, without regard to the electoral success of minority candidates or the need to prove actual racial injury exists.

The CVRA purports to alter several requirements that plaintiffs would have to prove under the Federal Voting Rights Act, thereby making it easier to challenge at-large election systems.

The first suit under the CVRA was filed against the City of Modesto in 2004. Modesto challenged the facial constitutionality of the CVRA on the basis that, by using race as the sole criterion of liability, the CVRA contains a suspect racial classification that California was required to justify under equal protection strict scrutiny standards. The trial court struck down the statute but the California Court of Appeal reversed. (*Sanchez v. City of Modesto* (2006) 145 Cal.App.4th 660).

The City of Modesto ultimately settled the litigation, but not before paying plaintiffs \$3 million dollars in attorneys' fees to plaintiffs' attorneys (the prevailing party [other than a public agency] is entitled to an award of their attorneys' fees and costs under the CVRA) and another \$1.7 million to its own attorneys.

Similarly, the Hanford Joint Union High School District was sued under the CVRA and after adopting trustee areas and establishing by-trustee area elections (and requesting and receiving the same waiver from the State Board of Education that is being requested here), paid plaintiffs in that lawsuit the sum of \$110,000 pursuant to a settlement agreement. Most recently, the Madera Unified School District has been sued under the CVRA and their November 2008 governing board member election was enjoined by the court. The Plaintiffs in that case demanded \$1.8 million in attorneys' fees from that District.

Normally, under Education Code section 5020, the County Committee on School District organization, after conducting its own public hearing on the recommended plans, would call for an election and put the matter to a vote of the District's electors. However, going through that process would prevent the District from electing successor trustees in a timely manner and leaves the District vulnerable to a lawsuit and injunction.

The requested waiver will allow the District to complete its transition to a by-trustee area election process in time to for the next governing board member election in November of 2013 which will reduce the District's liability under the CVRA going forward.

<b>California Department of Education WAIVER SUBMISSION - General</b>
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CD Code: 2773825      Waiver Number: 46-2-2013      Active Year: 2013

Date In: 2/26/2013 10:46:18 AM

Local Education Agency: North Monterey County Unified School District  
Address: 8142 Moss Landing Rd.  
Moss Landing, CA 95039

Start: 2/21/2013      End: 12/31/2014

Waiver Renewal: N  
Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: School District Reorganization  
Ed Code Title: Elimination of Election Requirement  
Ed Code Section: Portions 5019, 5021, 5030 and all of 5020  
Ed Code Authority: 33050

Ed Code or CCR to Waive: See Attachment A

Outcome Rationale: See Attachment B

Student Population: 4228

City Type: Rural

Public Hearing Date: 2/7/2013  
Public Hearing Advertised: Notice in Newspaper, Notice Posted at Each School and District Website

Local Board Approval Date: 2/7/2013

Committee/Council Reviewed By: Monterey County Committee for School District Organization  
Committee/Council Reviewed Date: 2/20/2013  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Kari Yeater  
Position: Superintendent  
E-mail: kyeater@nmcusd.org  
Telephone: 831-633-3343 x210  
Fax: 831-633-4188

Bargaining Unit: Date: 01/31/2013  
Name: AFT Representative: Kelly Moore  
Title: President  
Position: Neutral  
Comments:

Bargaining Unit: Date: 01/31/2013  
Name: CSEA Representative: Erika Linares  
Title: President  
Position: Neutral  
Comments:

Bargaining Unit: Date: 01/31/2013  
Name: DELAC Representative: School Members School Members  
Title: School Members  
Position: Support  
Comments:

Bargaining Unit: Date: 01/31/2013  
Name: Schoo Site Councils at 7 Schools  
Representative: School Members School Members  
Title: School Members  
Position: Support  
Comments:

**Attachment A**

**6. Education Code or California Code of Regulations section to be waived**

The North Monterey County Unified School District desires to waive the following sections and portions of the Education Code lined out below:

**§ 5019. Trustee areas and size of school district governing boards; powers of county committee; proposal and hearing**

(a) Except in a school district governed by a board of education provided for in the charter of a city or city and county, in any school district or community college district, the county committee on school district organization may establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or adopt one of the alternative methods of electing governing board members specified in Section 5030.

(b) The county committee on school district organization may establish or abolish a common governing board for a high school district and an elementary school district within the boundaries of the high school district. The resolution of the county committee on school district organization approving the establishment or abolition of a common governing board shall be presented to the electors of the school districts as specified in Section 5020.

(c) (1) A proposal to make the changes described in subdivision (a) or (b) may be initiated by the county committee on school district organization or made to the county committee on school district organization either by a petition signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters, by 3 percent or 100, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 to 10,000 qualified registered voters, by 1 percent or 250, whichever is less, of the qualified registered voters residing in a district in which there are 10,001 to 50,000 qualified registered voters, by 500 or more of the qualified registered voters residing in a district in which there are 50,001 to 100,000 qualified registered voters, by 750 or more of the qualified registered voters residing in a district in which there are 100,001 to 250,000 qualified registered voters, or by 1,000 or more of the qualified registered voters residing in a district in which there are 250,001 or more qualified registered voters or by resolution of the governing board of the district. For this purpose, the necessary signatures for a petition shall be obtained within a period of 180 days before the submission of the petition to the county committee on school district organization and the number of qualified registered voters in the district shall be determined pursuant to the most recent report submitted by the county elections official to the Secretary of State under Section 2187 of the Elections Code.

(2) When a proposal is made pursuant to paragraph (1), the county committee on school district organization shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee on school district organization shall approve or disapprove the proposal.

(d) If the county committee on school district organization approves pursuant to subdivision (a) ~~the rearrangement of the boundaries of trustee areas for a particular district, then the rearrangement of the trustee areas shall be effectuated for the next district election occurring at least 120 days after its approval, unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. The petition for an election shall be submitted to the county elections official within 60 days of the proposal's adoption by the county committee on school district organization. If the qualified registered voters~~

approve pursuant to subdivision (b) or (c) the rearrangement of the boundaries to the trustee areas for a particular district, the rearrangement of the trustee areas shall be effective for the next district election occurring at least 120 days after its approval by the voters.

#### **§ 5020. Presentation of proposal to electors**

~~(a) The resolution of the county committee approving a proposal to establish or abolish trustee areas, to adopt one of the alternative methods of electing governing board members specified in Section 5030, or to increase or decrease the number of members of the governing board shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board.~~

~~(b) If a petition requesting an election on a proposal to rearrange trustee area boundaries is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.~~

~~(c) If a petition requesting an election on a proposal to establish or abolish trustee areas, to increase or decrease the number of members of the board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030 is filed, containing at least 10 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. Before the proposal is presented to the electors, the county committee on school district organization may call and conduct one or more public hearings on the proposal.~~

~~(d) The resolution of the county committee approving a proposal to establish or abolish a common governing board for a high school and an elementary school district within the boundaries of the high school district shall constitute an order of election. The proposal shall be presented to the electors of the district at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.~~

~~(e) For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:~~

~~"For the establishment (or abolition or rearrangement) of trustee areas in \_\_\_\_\_ (insert name) School District--Yes" and "For the establishment (or abolition or rearrangement) of trustee areas in \_\_\_\_\_ (insert name) School District--No."~~

~~"For increasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from five to seven--Yes" and "For increasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from five to seven--No."~~

~~"For decreasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from seven to five--Yes" and "For decreasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from seven to five--No."~~

~~"For the election of each member of the governing board of the \_\_\_\_\_ (insert name) School District by the registered voters of the entire \_\_\_\_\_ (insert name) School District--Yes" and "For the election of each member of the governing board of the \_\_\_\_\_ (insert name) School District by the registered voters of the entire \_\_\_\_\_ (insert name) School District--No."~~

~~"For the election of one member of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--Yes" and "For the election of one member of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--No."~~

~~"For the election of one member, or more than one member for one or more trustee areas, of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters of the entire \_\_\_\_\_ (insert name) School District--Yes" and "For the election of one member, or more than one member for one or more trustee areas, of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters of the entire \_\_\_\_\_ (insert name) School District--No."~~

~~"For the establishment (or abolition) of a common governing board in the \_\_\_\_\_ (insert name) School District and the \_\_\_\_\_ (insert name) School District--Yes" and "For the establishment (or abolition) of a common governing board in the \_\_\_\_\_ (insert name) School District and the \_\_\_\_\_ (insert name) School District--No."~~

~~—If more than one proposal appears on the ballot, all must carry in order for any to become effective, except that a proposal to adopt one of the methods of election of board members specified in Section 5030 which is approved by the voters shall become effective unless a proposal which is inconsistent with that proposal has been approved by a greater number of voters. An inconsistent proposal approved by a lesser number of voters than the number which have approved a proposal to adopt one of the methods of election of board members specified in Section 5030 shall not be effective.~~

#### **§ 5021. Incumbents to serve out terms despite approval of change**

(a) If a proposal for the establishment of trustee areas formulated under Sections 5019 and 5020 is approved by a majority of the voters voting at the election, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030. In the event two or more trustee areas are established at such election which are not represented in the membership of the governing board of the school district, or community college district the county committee shall determine by lot the trustee area from which the nomination and election for the next vacancy on the governing board shall be made.

(b) If a proposal for rearrangement of boundaries is approved by a majority of the voters voting on the measure, or by the county committee on school district organization when no election is required, and if the boundary changes affect the board membership, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030.

(c) If a proposal for abolishing trustee areas is approved by a majority of the voters voting at the election, the incumbent board members shall serve out their terms of office and succeeding board members shall be nominated and elected at large from the district.

#### **§ 5030. Alternate method of election**

Except as provided in Sections 5027 and 5028, in any school district or community college district having trustee areas, the county committee on school district organization and the registered voters



of a district, pursuant to Sections 5019 and 5020, respectively, may at any time recommend one of the following alternate methods of electing governing board members:

(a) That each member of the governing board be elected by the registered voters of the entire district.

(b) That one or more members residing in each trustee area be elected by the registered voters of that particular trustee area.

(c) That each governing board member be elected by the registered voters of the entire school district or community college district, but reside in the trustee area which he or she represents.

The recommendation shall provide that any affected incumbent member shall serve out his or her term of office and that succeeding board members shall be nominated and elected in accordance with the method recommended by the county committee.

Whenever trustee areas are established in a district, provision shall be made for one of the alternative methods of electing governing board members.

~~In counties with a population of less than 25,000,~~ the county committee on school district organization or the county board of education, if it has succeeded to the duties of the county committee, may at any time, by resolution, with respect to trustee areas established for any school district, other than a community college district, amend the provision required by this section without additional approval by the electors, to require one of the alternate methods for electing board members to be utilized.

## Attachment B

### 6. Desired Outcome/ Rationale

The North Monterey County Unified School District desires to have the requested Education Code sections waived because the waiver of these sections will allow the District to successfully adopt trustee areas and establish a by-trustee election process as expeditiously as possible, thereby enabling the District to avoid litigation resulting out of its current at-large election process for electing its governing board members.

It is imperative that the District adopt these areas and establish this process without delay and without interference because like many of the school districts that have been threatened with lawsuits under the California Voting Rights Act of 2001 ("CVRA"), the District currently utilizes an at-large election process to elect its governing board members. The District's failure to successfully adopt and implement trustee areas and a by-trustee area election process leaves it vulnerable to such litigation in which the District would be exposed to potentially having to pay significant attorneys' fees to plaintiffs, which would pose an undue hardship and extreme detriment to the District and its students.

### CVRA History

The California Legislature enacted the California Voting Rights Act of 2001. (See California Elections Code §§ 14025-14032). This legislation makes all at-large election systems in California for cities, school districts and special districts vulnerable to legal attack, largely on proof of racially polarized voting, regardless of whether a majority district can be formed and, under the interpretation adopted by plaintiffs in other pending CVRA cases, without regard to the electoral success of minority candidates or the need to prove actual racial injury exists.

The CVRA purports to alter several requirements that plaintiffs would have to prove under the Federal Voting Rights Act, thereby making it easier to challenge at-large election systems. The first suit under the CVRA was filed against the City of Modesto in 2004. Modesto challenged the facial constitutionality of the CVRA on the basis that, by using race as the sole criterion of liability, the CVRA contains a suspect racial classification that California was required to justify under equal protection strict scrutiny standards. The trial court struck down the statute but the California Court of Appeal reversed. (*Sanchez v. City of Modesto* (2006) 145 Cal.App.4th 660).

The City of Modesto ultimately settled the litigation, but not before paying plaintiffs \$3 million dollars in attorneys' fees to plaintiffs' attorneys (the prevailing party [other than a public agency] is entitled to an award of their attorneys' fees and costs under the CVRA) and another \$1.7 million to its own attorneys.

Similarly, the Hanford Joint Union High School District was sued under the CVRA and after adopting trustee areas and establishing by-trustee area elections (and requesting and receiving the same waiver from the State Board of Education that is being requested here), paid plaintiffs in that lawsuit the sum of \$110,000 pursuant to a settlement agreement. Most recently, the Madera Unified School District has been sued under the CVRA and their November 2008 governing board member election was enjoined by the court. The Plaintiffs in that case demanded \$1.8 million in attorneys fees from that District, though that amount was subsequently reduced by the trial court and upheld on appeal.

Normally, under Education Code section 5020, the County Committee on School District organization, after conducting its own public hearing on the recommended plans, would call for

an election and put the matter to a vote of the District's electors. However, going through an election process would prevent the District from electing successor trustees in a timely manner and leaves the District vulnerable to a lawsuit and injunction.

The requested waiver will allow the District to complete its transition to a by-trustee area election process in time to for the next governing board member election which will reduce the District's liability under the CVRA going forward.

<b>California Department of Education</b> <b>WAIVER SUBMISSION - General</b>
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CD Code: 3367116      Waiver Number: 30-3-2013      Active Year: 2013

Date In: 3/12/2013 3:09:32 PM

Local Education Agency: Menifee Union Elementary School District  
Address: 30205 Menifee Rd.  
Menifee, CA 92584

Start: 5/10/2013      End: 5/8/2015

Waiver Renewal: N  
Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: School District Reorganization  
Ed Code Title: Elimination of Election Requirement  
Ed Code Section: 5019 (portions), 5020, 5021 (portions), 5030 (portions)  
Ed Code Authority: 33050-33053  
Ed Code or CCR to Waive: Attachment 1

Outcome Rationale: Attachment 2

Student Population: 8611

City Type: Small

Public Hearing Date: 1/22/2013  
Public Hearing Advertised: 11/21/2012 - 11/25/2012: Paper of general circulation, District website and at all school sites and District office.

Local Board Approval Date: 1/22/2013

Committee/Council Reviewed By: Attachment 3  
Committee/Council Reviewed Date: 1/16/2013  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Bill Shaeffer  
Position: Attorney for Menifee Union School District  
E-mail: bshaeffer@rutan.com  
Telephone: 714-338-1859  
Fax: 951-672-1385

Bargaining Unit: Date: 01/09/2013  
Name: Menifee Council of Classified Employees  
Representative: Frances Beruman  
Title: President  
Position: Neutral  
Comments:

Bargaining Unit: Date: 12/17/2012  
Name: Menifee Teachers' Association  
Representative: MaryAnn Jacobs  
Title: President  
Position: Neutral  
Comments:

## Attachment 1

### 6. Education Code or California Code of Regulations section to be waived

Request to waive the following sections and portions of the Education Code lined out below:

#### **§ 5019. Trustee areas and size of school district governing boards; powers of county committee; proposal and hearing**

(a) Except in a school district governed by a board of education provided for in the charter of a city or city and county, in any school district or community college district, the county committee on school district organization may establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or adopt one of the alternative methods of electing governing board members specified in Section 5030.

(b) The county committee on school district organization may establish or abolish a common governing board for a high school district and an elementary school district within the boundaries of the high school district. The resolution of the county committee on school district organization approving the establishment or abolition of a common governing board shall be presented to the electors of the school districts as specified in Section 5020.

(c) (1) A proposal to make the changes described in subdivision (a) or (b) may be initiated by the county committee on school district organization or made to the county committee on school district organization either by a petition signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters, by 3 percent or 100, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 to 10,000 qualified registered voters, by 1 percent or 250, whichever is less, of the qualified registered voters residing in a district in which there are 10,001 to 50,000 qualified registered voters, by 500 or more of the qualified registered voters residing in a district in which there are 50,001 to 100,000 qualified registered voters, by 750 or more of the qualified registered voters residing in a district in which there are 100,001 to 250,000 qualified registered voters, or by 1,000 or more of the qualified registered voters residing in a district in which there are 250,001 or more qualified registered voters or by resolution of the governing board of the district. For this purpose, the necessary signatures for a petition shall be obtained within a period of 180 days before the submission of the petition to the county committee on school district organization and the number of qualified registered voters in the district shall be determined pursuant to the most recent report submitted by the county elections official to the Secretary of State under Section 2187 of the Elections Code.

(2) When a proposal is made pursuant to paragraph (1), the county committee on school district organization shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee on school district organization shall approve or disapprove the proposal.

(d) If the county committee on school district organization approves pursuant to subdivision (a) ~~the rearrangement of the boundaries of trustee areas for a particular district, then the rearrangement of the trustee areas shall be effectuated for the next district election occurring at least 120 days after its approval, unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. The petition for~~

~~an election shall be submitted to the county elections official within 60 days of the proposal's adoption by the county committee on school district organization. If the qualified registered voters approve pursuant to subdivision (b) or (c) the rearrangement of the boundaries to the trustee areas for a particular district, the rearrangement of the trustee areas shall be effective for the next district election occurring at least 120 days after its approval by the voters.~~

**§ 5020. Presentation of proposal to electors**

~~(a) The resolution of the county committee approving a proposal to establish or abolish trustee areas, to adopt one of the alternative methods of electing governing board members specified in Section 5030, or to increase or decrease the number of members of the governing board shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board.~~

~~(b) If a petition requesting an election on a proposal to rearrange trustee area boundaries is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.~~

~~(c) If a petition requesting an election on a proposal to establish or abolish trustee areas, to increase or decrease the number of members of the board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030 is filed, containing at least 10 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. Before the proposal is presented to the electors, the county committee on school district organization may call and conduct one or more public hearings on the proposal.~~

~~(d) The resolution of the county committee approving a proposal to establish or abolish a common governing board for a high school and an elementary school district within the boundaries of the high school district shall constitute an order of election. The proposal shall be presented to the electors of the district at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.~~

~~(e) For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:~~

~~"For the establishment (or abolition or rearrangement) of trustee areas in \_\_\_\_\_ (insert name) School District --Yes" and "For the establishment (or abolition or rearrangement) of trustee areas in \_\_\_\_\_ (insert name) School District--No."~~

~~"For increasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from five to seven--Yes" and "For increasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from five to seven--No."~~

~~"For decreasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from seven to five--Yes" and "For decreasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from seven to five--No."~~

~~"For the election of each member of the governing board of the \_\_\_\_\_ (insert name) School District by the registered voters of the entire \_\_\_\_\_ (insert name) School District--Yes" and "For the election of each member of the governing board of the \_\_\_\_\_ (insert name) School District by the registered voters of the entire \_\_\_\_\_ (insert name) School District--No."~~

~~"For the election of one member of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--Yes" and "For the election of one member of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--No."~~

~~"For the election of one member, or more than one member for one or more trustee areas, of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters of the entire \_\_\_\_\_ (insert name) School District--Yes" and "For the election of one member, or more than one member for one or more trustee areas, of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters of the entire \_\_\_\_\_ (insert name) School District--No."~~

~~"For the establishment (or abolition) of a common governing board in the \_\_\_\_\_ (insert name) School District and the \_\_\_\_\_ (insert name) School District--Yes" and "For the establishment (or abolition) of a common governing board in the \_\_\_\_\_ (insert name) School District and the \_\_\_\_\_ (insert name) School District--No."~~

~~—If more than one proposal appears on the ballot, all must carry in order for any to become effective, except that a proposal to adopt one of the methods of election of board members specified in Section 5030 which is approved by the voters shall become effective unless a proposal which is inconsistent with that proposal has been approved by a greater number of voters. An inconsistent proposal approved by a lesser number of voters than the number which have approved a proposal to adopt one of the methods of election of board members specified in Section 5030 shall not be effective.~~

#### **§ 5021. Incumbents to serve out terms despite approval of change**

(a) If a proposal for the establishment of trustee areas formulated under Sections 5019 and 5020 is approved by a majority of the voters voting at the election, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030. In the event two or more trustee areas are established at such election which are not represented in the membership of the governing board of the school district, or community college district the county committee shall determine by lot the trustee area from which the nomination and election for the next vacancy on the governing board shall be made.

(b) If a proposal for rearrangement of boundaries is approved by a majority of the voters voting on the measure, or by the county committee on school district organization when no election is required, and if the boundary changes affect the board membership, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030.

(c) If a proposal for abolishing trustee areas is approved by a majority of the voters voting at the election, the incumbent board members shall serve out their terms of office and succeeding board



members shall be nominated and elected at large from the district.

**§ 5030. Alternate method of election**

Except as provided in Sections 5027 and 5028, in any school district or community college district having trustee areas, the county committee on school district organization ~~and the registered voters of a district~~, pursuant to Sections 5019 and 5020, respectively, may at any time recommend one of the following alternate methods of electing governing board members:

(a) That each member of the governing board be elected by the registered voters of the entire district.

(b) That one or more members residing in each trustee area be elected by the registered voters of that particular trustee area.

(c) That each governing board member be elected by the registered voters of the entire school district or community college district, but reside in the trustee area which he or she represents.

The recommendation shall provide that any affected incumbent member shall serve out his or her term of office and that succeeding board members shall be nominated and elected in accordance with the method recommended by the county committee.

Whenever trustee areas are established in a district, provision shall be made for one of the alternative methods of electing governing board members.

~~In counties with a population of less than 25,000,~~ the county committee on school district organization or the county board of education, if it has succeeded to the duties of the county committee, may at any time, by resolution, with respect to trustee areas established for any school district, other than a community college district, amend the provision required by this section without additional approval by the electors, to require one of the alternate methods for electing board members to be utilized.

## ATTACHMENT 2

Identities of the District and School Site Advisory Committees, School Site Councils and PTAs of the Menifee Union School District that reviewed this waiver of the election requirements to convert to a by-trustee area method of electing Board members and whether there were any objections expressed at those meetings.

The District English Learner Advisory Committee met on January 16, 2013. No objection to the Plan ultimately adopted by the Board on January 22, 2013; there was one objection to one of the other plans that was not adopted by the Governing Board.

Bell Mountain Middle School, School Site Council Meeting occurred on January 22, 2013

No objection

Callie Kirkpatrick Elementary School, School Site Council/Advisory Committee Special Meeting occurred November 29, 2012

No objection

Chester Morrison Elementary School Site Council Meeting occurred on January 17, 2013

No objection

Menifee Union School District Reunión De Padres DE ELAC Parent Meeting occurred on January 17, 2013

No objection.

Evans Ranch Elementary School, School Site Council Meeting occurred on December 20, 2012

No objection

Freedom Crest Elementary School, Advisory Committee, PTA, School Site Council, Key Communicators Meeting occurred on December 4, 2012

No objection

Herk Bouris Elementary School, School Site Council and English Language Advisory Committee (hereinafter "ELAC") Meeting occurred on December 19, 2012.

No objection

Herk Bouris Elementary School, PTA Executive Board Meeting occurred on  
December 4, 2012.

No objection

Christensen Middle School, School Site Council Meeting occurred on January 16, 2013

No objection

Menifee Valley Middle School, School Site Council Meeting and ELAC Meeting occurred on  
December 11, 2012

No objection

Oak Meadows Elementary School, School Site Council Meeting occurred on  
January 18, 2013.

No objection

Oak Meadows Elementary School, Parent Advisory Committee Meeting occurred on  
December 13, 2012.

No objection

Quail Valley Elementary School, School Site Council Special Meeting occurred on  
December 17, 2012

No objection

Quail Valley Elementary, PTA Meeting occurred on December 5, 2012

No objection

Ridgemoor Elementary School, School Site Council Meeting occurred on January 15, 2013

No objection

Ridgemoor Elementary School, ELAC Meeting occurred on January 15, 2013

No objection

Southshore Elementary School Parent Teacher Association Meeting occurred on

December 6, 2012

No objection

Southshore Elementary School Site Council Meeting occurred on December 6, 2012

No objection

### ATTACHMENT 3

The members of the Board of Education ("Board") of the Menifee Union School District ("District") used an at-large system of electing its Governing Board members until February 28, 2013 at which time the Riverside County Committee on School District Organization ("Riverside County Committee") passed Resolution No. 2013-1 establishing trustee election areas in the Menifee Union School District.

The County Committee's Resolution was predated by a January 22, 2013 Resolution of the District's Board adopting final plans and trustee area maps; recommending that the Riverside County Committee approve and establish trustee areas from which the District's Governing Board members will be elected in a by-trustee area election method; and further seeking a waiver of the election process to convert to a by-trustee area method from an at-large method of electing Board members.

The District's Board Resolution of January 22, 2013 was based on four public hearings and publication notifications as described above. The District's Board determined in its Resolution of January 22, 2013 that the completion of the 2010 U.S. Census Data made it a desirable time to convert to a by-trustee area election method. The District's Board further concluded that converting to a by-trustee area method from an at-large method of electing Board members mitigates possible claims under the California Voting Rights Act and the Federal Voting Rights Act.

Finally, the District's Board Resolution to seek this instant application to the State Board of Education to waive the voter approval requirements of the Education Code was for the purpose of substantially reducing the cost associated with the proposed change in the manner of electing Board members and in furtherance of its effort to elect Board members in the most cost-effective manner possible.

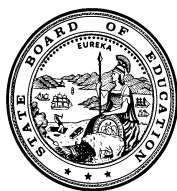
The next Board election in District is November 2013.



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-17**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by **Patterson Joint Unified School District** to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to establish new trustee areas and reduce the size of the governing board from seven to five members.

Waiver Number: 5-2-2013

☒ **Action**

☒ **Consent**

##### RECOMMENDATION

☒ **Approval** ☐ **Approval with conditions** ☐ **Denial**

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The California State Board of Education (SBE) has approved numerous similar waiver requests in the past—the most recent approvals were for the Downey Unified School District (USD) in Los Angeles County and the Romoland Elementary School District in Riverside County at the March 2013 SBE meeting.

##### SUMMARY OF KEY ISSUES

Approval of this waiver request would eliminate the election requirement for approval of trustee areas and a by-trustee-area method of election for future governing board elections in the Patterson Joint USD (Stanislaus County). Voters in the district will continue to elect all board members—however, if the waiver is approved, all board members will be elected by trustee areas, beginning with the next board election.

An approved waiver request also will eliminate the election requirement to reduce the size of the Patterson Joint USD governing board from seven to five members.

A county committee on school district organization (county committee) has authority to approve or disapprove the adoption of trustee areas and methods of election for school district governing board elections, as well as the change in the number of members of governing boards. Pursuant to California *Education Code* (EC) Section 5020, county committee approval of trustee areas, methods of election, and size of the governing board constitutes an order to call a district-wide election on the county committee approved changes—this is the election requirement that will be eliminated if this waiver request is approved.

A number of districts in California are facing existing or potential litigation under the California Voting Rights Act of 2001 over at-large election methods. To help protect itself from potential litigation, the Patterson Joint USD is taking action to establish trustee areas and adopt a by-trustee-area method of election for the governing board. In order to establish these trustee areas and the method of election as expeditiously as possible, the district is requesting that the SBE waive the requirement that the trustee areas and the election method be approved at a district-wide election.

Additionally, the Patterson Joint USD governing board historically has had difficulty finding individuals to run for the governing board—resulting in issues with establishing a quorum at meetings and appointing individuals to the board. The district believes that changing to a five-member board will address these problems and prove to be less costly than operating a seven-member board.

This waiver request has been reviewed by California Department of Education (CDE) staff and a determination has been made that: (1) the waiver was initiated by action of the governing board, and (2) there was no significant public opposition to the waiver at the public hearing held by the governing board.

Only the election to establish trustee areas, methods of election, and size of the governing board will be eliminated by approval of the waiver request—voters in the school district will continue to elect all governing board members. Moreover, approval of the waiver request will not eliminate any existing legal rights of the currently seated board members. Approval at the May 2013 SBE meeting will allow these changes to be effective for the November 2013 governing board election.

The CDE finds that none of the grounds specified in *EC* Section 33051, which authorize denial of a waiver, exist. The CDE recommends that the SBE approve the request by the Patterson Joint USD to waive *EC* Section 5020 in its entirety and portions of *EC* sections 5019, 5021, and 5030.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a),** available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.

**Demographic Information:** The Patterson Joint USD has a student population of 5,700 and is located in a rural setting in Stanislaus County.

**Authority for Waiver:** *EC* Section 33050

**Period of request:** January 1, 2013, to December 31, 2014 (requested)  
January 1, 2013, to December 30, 2014 (recommended)

**Local board approval date(s):** February 4, 2013

**Public hearing held on date(s):** February 4, 2013



**Bargaining unit(s) consulted on date(s):** California School Employees' Association (CSEA) Chapter 174: January 22, 2013; Patterson Association of Teachers (PAT): January 22, 2013.

**Name of bargaining unit/representative(s) consulted:** CSEA: Gloria Pinedo, President; PAT: Nicole Sousa, President.

**Position of bargaining unit(s) (choose only one):**

☒ Neutral ☐ Support ☐ Oppose:

Comments (if appropriate):

**Public hearing advertised by (choose one or more):**

☒ posting in a newspaper ☒ posting at each school ☒ other (specify): Posted at Patterson Public Library.

**Advisory committee(s) consulted:** All school site councils and District English Language Advisory Committee (DELAC).

**Objections raised (choose one):** ☒ None ☐ Objections are as follows:

**Date(s) consulted:** January 22, 2013

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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Approval of the waiver request will not have negative fiscal effects on any local or state agency. Failure to approve the waiver request will result in the additional costs to the district for a district-wide election.

### **ATTACHMENT(S)**

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Attachment 1: Patterson Joint Unified School District (5-2-2013) General Waiver Request. (6 pages) (Original waiver request is signed and on file in the Waiver Office.)

**California Department of Education  
WAIVER SUBMISSION - General**

CD Code: 5071217      Waiver Number: 5-2-2013      Active Year: 2013

Date In: 2/7/2013 8:36:46 AM

Local Education Agency: Patterson Joint Unified School District  
Address: 510 Keystone Blvd.  
Patterson, CA 95363

Start: 1/1/2013      End: 12/31/2014

Waiver Renewal: N

Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: School District Reorganization  
Ed Code Title: Elimination of Election Requirement  
Ed Code Section: Portions of 5019, 5021, 5030 and all of 5020  
Ed Code Authority: 33050

Ed Code or CCR to Waive:

**6. Education Code or California Code of Regulations section to be waived**

The Patterson Joint Unified School District desires to waive the following sections and portions of the Education Code lined out below:

**§ 5019. Trustee areas and size of school district governing boards; powers of county committee; proposal and hearing**

(a) Except in a school district governed by a board of education provided for in the charter of a city or city and county, in any school district or community college district, the county committee on school district organization may establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or adopt one of the alternative methods of electing governing board members specified in Section 5030.

(b) The county committee on school district organization may establish or abolish a common governing board for a high school district and an elementary school district within the boundaries of the high school district. The resolution of the county committee on school district organization approving the establishment or abolition of a common governing board shall be presented to the electors of the school districts as specified in Section 5020.

(c) (1) A proposal to make the changes described in subdivision (a) or (b) may be initiated by the county committee on school district organization or made to the county committee on school district organization either by a petition signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters, by 3 percent or 100, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 to 10,000 qualified registered voters, by 1 percent or 250, whichever is less, of the qualified registered voters residing in a district in which there are 10,001 to 50,000 qualified registered voters, by 500 or more of the qualified registered voters residing in a district in which there are 50,001 to 100,000 qualified registered voters, by 750 or more of the qualified registered voters residing in a district in which there are 100,001 to 250,000 qualified registered voters, or by 1,000 or more of the qualified registered voters residing in a district in which there are 250,001 or more qualified registered voters or by

resolution of the governing board of the district. For this purpose, the necessary signatures for a petition shall be obtained within a period of 180 days before the submission of the petition to the county committee on school district organization and the number of qualified registered voters in the district shall be determined pursuant to the most recent report submitted by the county elections official to the Secretary of State under Section 2187 of the Elections Code.

(2) When a proposal is made pursuant to paragraph (1), the county committee on school district organization shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee on school district organization shall approve or disapprove the proposal.

(d) If the county committee on school district organization approves pursuant to subdivision (a) ~~the rearrangement of the boundaries of trustee areas for a particular district, then the rearrangement of the trustee areas shall be effectuated for the next district election occurring at least 120 days after its approval, unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. The petition for an election shall be submitted to the county elections official within 60 days of the proposal's adoption by the county committee on school district organization. If the qualified registered voters approve pursuant to subdivision (b) or (c) the rearrangement of the boundaries to the trustee areas for a particular district, the rearrangement of the trustee areas shall be effective for the next district election occurring at least 120 days after its approval by the voters.~~

#### **~~§ 5020. Presentation of proposal to electors~~**

~~(a) The resolution of the county committee approving a proposal to establish or abolish trustee areas, to adopt one of the alternative methods of electing governing board members specified in Section 5030, or to increase or decrease the number of members of the governing board shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board.~~

~~(b) If a petition requesting an election on a proposal to rearrange trustee area boundaries is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.~~

~~(c) If a petition requesting an election on a proposal to establish or abolish trustee areas, to increase or decrease the number of members of the board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030 is filed, containing at least 10 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. Before the proposal is presented to the electors, the county committee on school district organization may call and conduct one or more public hearings on the proposal.~~

~~(d) The resolution of the county committee approving a proposal to establish or abolish a common governing board for a high school and an elementary school district within the boundaries of the high school district shall constitute an order of election. The proposal shall be presented to the electors of the district at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the~~

~~district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.~~

~~(e) For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:~~

~~"For the establishment (or abolition or rearrangement) of trustee areas in \_\_\_\_\_ (insert name) School District--Yes" and "For the establishment (or abolition or rearrangement) of trustee areas in \_\_\_\_\_ (insert name) School District--No."~~

~~"For increasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from five to seven--Yes" and "For increasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from five to seven--No."~~

~~"For decreasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from seven to five--Yes" and "For decreasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from seven to five--No."~~

~~"For the election of each member of the governing board of the \_\_\_\_\_ (insert name) School District by the registered voters of the entire \_\_\_\_\_ (insert name) School District--Yes" and "For the election of each member of the governing board of the \_\_\_\_\_ (insert name) School District by the registered voters of the entire \_\_\_\_\_ (insert name) School District--No."~~

~~"For the election of one member of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--Yes" and "For the election of one member of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--No."~~

~~"For the election of one member, or more than one member for one or more trustee areas, of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters of the entire \_\_\_\_\_ (insert name) School District--Yes" and "For the election of one member, or more than one member for one or more trustee areas, of the governing board of the \_\_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters of the entire \_\_\_\_\_ (insert name) School District--No."~~

~~"For the establishment (or abolition) of a common governing board in the \_\_\_\_\_ (insert name) School District and the \_\_\_\_\_ (insert name) School District--Yes" and "For the establishment (or abolition) of a common governing board in the \_\_\_\_\_ (insert name) School District and the \_\_\_\_\_ (insert name) School District--No." If more than one proposal appears on the ballot, all must carry in order for any to become effective, except that a proposal to adopt one of the methods of election of board members specified in Section 5030 which is approved by the voters shall become effective unless a proposal which is inconsistent with that proposal has been approved by a greater number of voters. An inconsistent proposal approved by a lesser number of voters than the number which have approved a proposal to adopt one of the methods of election of board members specified in Section 5030 shall not be effective.~~

#### **§ 5021. Incumbents to serve out terms despite approval of change**

(a) If a proposal for the establishment of trustee areas formulated under Sections 5019 and 5020 is approved by a majority of the voters voting at the election, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030. In the event two or more trustee areas are established at such election which are not represented in the membership of the governing board of the school district, or community college district the county committee shall determine by lot the trustee area from which the nomination and election for the next vacancy on the governing board shall be made.

(b) If a proposal for rearrangement of boundaries is approved by a majority of the voters voting on the measure, or by the county committee on school district organization when no election is required, and if the boundary changes affect the board membership, any affected incumbent

board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030.

(c) If a proposal for abolishing trustee areas is approved by a majority of the voters voting at the election, the incumbent board members shall serve out their terms of office and succeeding board members shall be nominated and elected at large from the district.

#### **§ 5030. Alternate method of election**

Except as provided in Sections 5027 and 5028, in any school district or community college district having trustee areas, the county committee on school district organization and the registered voters of a district, pursuant to Sections 5019 and 5020, respectively, may at any time recommend one of the following alternate methods of electing governing board members:

(a) That each member of the governing board be elected by the registered voters of the entire district.

(b) That one or more members residing in each trustee area be elected by the registered voters of that particular trustee area.

(c) That each governing board member be elected by the registered voters of the entire school district or community college district, but reside in the trustee area which he or she represents. The recommendation shall provide that any affected incumbent member shall serve out his or her term of office and that succeeding board members shall be nominated and elected in accordance with the method recommended by the county committee. Whenever trustee areas are established in a district, provision shall be made for one of the alternative methods of electing governing board members.

~~In counties with a population of less than 25,000,~~ the county committee on school district organization or the county board of education, if it has succeeded to the duties of the county committee, may at any time, by resolution, with respect to trustee areas established for any school district, other than a community college district, amend the provision required by this section without additional approval by the electors, to require one of the alternate methods for electing board members to be utilized.

Outcome Rationale: The Patterson Joint Unified School District desires to have the requested Education Code sections waived because the waiver of these sections will allow the District to successfully adopt a by-trustee area election plan consisting of five trustee areas (instead of seven) as expeditiously and cost-effectively as possible, thereby enabling the District to avoid litigation resulting out of its current at-large election process for electing its governing board members and to avoid the cost, expense and difficulty of maintaining a seven member board. It is imperative that the District adopt these areas and establish this process without delay and without interference because like many of the school districts that have been threatened with lawsuits under the California Voting Rights Act of 2001 ("CVRA"), the District currently utilizes an at-large election process to elect its governing board members. The District's failure to successfully adopt and implement trustee areas and a by-trustee area election process leaves it vulnerable to such litigation in which the District would be exposed to potentially having to pay significant attorneys' fees to plaintiffs, which would pose an undue hardship and extreme detriment to the District and its students.

#### **CVRA History**

The California Legislature enacted the California Voting Rights Act of 2001. (See California Elections Code §§ 14025-14032). This legislation makes all at-large election systems in California for cities, school districts and special districts vulnerable to legal attack, largely on proof of racially polarized voting, regardless of whether a majority district can be formed and, under the interpretation adopted by plaintiffs in other pending CVRA cases, without regard to the electoral success of minority candidates or the need to prove actual racial injury exists.

The CVRA purports to alter several requirements that plaintiffs would have to prove under the Federal Voting Rights Act, thereby making it easier to challenge at-large election systems. The first suit under the CVRA was filed against the City of Modesto in 2004. Modesto challenged the facial constitutionality of the CVRA on the basis that, by using race as the sole criterion of liability, the CVRA contains a suspect racial classification that California was required to justify under equal protection strict scrutiny standards. The trial court struck down the statute but the California Court of Appeal reversed. (*Sanchez v. City of Modesto* (2006) 145 Cal.App.4th 660).

The City of Modesto ultimately settled the litigation, but not before paying plaintiffs \$3 million dollars in attorneys' fees to plaintiffs' attorneys (the prevailing party [other than a public agency] is entitled to an award of their attorneys' fees and costs under the CVRA) and another \$1.7 million to its own attorneys.

Similarly, the Hanford Joint Union High School District was sued under the CVRA and after adopting trustee areas and establishing by-trustee area elections (and requesting and receiving the same waiver from the State Board of Education that is being requested here), paid plaintiffs in 005862.00019/10147639v1 that lawsuit the sum of \$110,000 pursuant to a settlement agreement. Most recently, the Madera Unified School District has been sued under the CVRA and their November 2008 governing board member election was enjoined by the court. The Plaintiffs in that case demanded \$1.8 million in attorneys' fees from that District.

Normally, under Education Code section 5020, the County Committee on School District organization, after conducting its own public hearing on the recommended plans, would call for an election and put the matter to a vote of the District's electors. However, going through that process would prevent the District from electing successor trustees in a timely manner and leaves the District vulnerable to a lawsuit and injunction.

Moreover, even in the District's current at-large election method, it has posed a challenge and sometimes a hardship for the District to find individuals to run for governing board. Many times, the District has to appoint individuals to fill vacancies. This problem would be exacerbated by moving to a by-trustee area election process as candidates would have to reside in specific geographic areas within the District's boundaries. Also, operating a five member board is less costly than operating a seven member board (and it is easier to seat a quorum of a five member board than a seven member board -- which has also been an issue with this District in the past). The requested waiver will allow the District to complete its transition to a by-trustee area election process with five areas in time to for the next governing board member election in November of 2012 which will reduce the District's liability under the CVRA going forward and the reduction in governing board members will allow the District to be governed more efficiently and effectively.

Student Population: 5700

City Type: Rural

Public Hearing Date: 2/4/2013

Public Hearing Advertised: Notice in newspaper, posted at each school site, and posted at Patterson Public Library

Local Board Approval Date: 2/4/2013

Committee/Council Reviewed By: DELAC and all school site councils

Committee/Council Reviewed Date: 1/22/2013  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Susan White  
Position: Executive Secretary to the Superintendent  
E-mail: swhite@patterson.k12.ca.ua  
Telephone: 209-895-7700 x20289  
Fax:

Bargaining Unit: Date: 01/22/2013  
Name: Patterson Association of Teachers  
Representative: Nicole Sousa  
Title: President  
Position: Neutral  
Comments:

Bargaining Unit: Date: 01/22/2013  
Name: CSEA Chapter #174  
Representative: Gloria Pinedo  
Title: President  
Position: Neutral  
Comments:

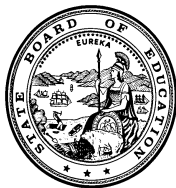


# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-18**





## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by **four local educational agencies** to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days of attendance of four hours each for an extended school year (summer school) for special education students.

Waiver Numbers: Chula Vista Elementary School District 95-1-2013  
Imperial County Office of Education 31-2-2013  
Oroville City Elementary School District 42-2-2013  
Visalia Unified School District 66-1-2013

☒ **Action**

☒ **Consent**

#### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends that the State Board of Education (SBE) approve the request from four local educational agencies to provide extended school year (ESY) services for fewer than 20 days with the condition that 80 hours or more of instruction be provided. (A minimum of 76 hours of instruction may be provided if a holiday is included.) Also, special education and related services offered during the extended year period must be comparable in standards, scope, and quality to the special education program offered during the regular academic year as required by *California Code of Regulations*, Title 5, (5 CCR), Section 3043(d).

#### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In the past, the SBE approved waivers to allow school districts to provide the required minimum amount of instruction in fewer days during the ESY for special education students.

Extended school year is the term for the education of special education students "between the close of one academic year and the beginning of the next," similar to a summer school. It must be provided for each individual with exceptional needs whose individualized education program (IEP) requires it. Local educational agencies may request a waiver to provide an ESY program for fewer days than the traditional model.

## **SUMMARY OF KEY ISSUES**

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The Chula Vista Elementary School District (SD) proposes to provide ESY services utilizing a 12-day model with seven hours of instruction per day. This unique request is necessitated by a modification to the 2012–13 school calendar and a shortened time period between school years. There is no general education summer school for the 2012–13 year.

Historically, the District finds it difficult to recruit staff for a 20-day summer session when there is a shortened break. The 12 day model provides students with comparable hours of instruction (84 hours) and a greater opportunity for instructional impact with longer days.

Further, the Chula Vista Elementary SD meets the criteria for the SBE Streamlined Waiver Policy, <http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc>, achieving an Academic Performance Index (API) of 800 or above in the current scoring cycle and meeting growth targets in the current scoring cycle, both schoolwide and for all subgroups.

The Imperial County Office of Education (COE) proposes to provide ESY services utilizing a 16-day model over a four week period of four and three quarter hours per day, providing the same number of instructional hours equal to the traditional 20-day calendar, including holidays. The Imperial COE believes that an increase in daily instructional time over a period of 16 days will result in educational benefit for students.

The Oroville City Elementary SD (OCESD) proposes to provide ESY services utilizing a 15-day model of five and one-half hours of instruction per day. This proposal aligns the district schedule with the ESY schedule of the Butte County Office of Education (BCOE) which provides ESY services to some OCESD students. Further, both programs utilize the BCOE's transportation and support providers.

The Visalia Unified SD proposes to provide ESY services utilizing a 16-day model of five hours of instruction per day. This proposal provides the same number of instructional hours equal to the traditional 20-day calendar and an opportunity for special education staff to participate in staff development which occurs during the summer.

For the purposes of reimbursement for average daily attendance, an ESY program:

- Must provide instruction of at least as many minutes over the shorter period as would have been provided during a typical 20-day program;
- Must be the same length of time as the school day for pupils of the same age level attending summer school in the district in which the extended year program is provided, but not less than the minimum school day for that age unless otherwise specified in the IEP to meet a pupil's unique needs; and

- Must offer special education and related services during the extended year period that are comparable in standards, scope, and quality to the special education program offered during the regular academic year.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC 33051(a)*, available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.**

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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There is no statewide fiscal impact of waiver approval.

### **ATTACHMENTS**

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- Attachment 1: Summary Table (2 pages)
- Attachment 2: Chula Vista Elementary School District General Waiver Request 95-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 3: Imperial County Office of Education General Waiver Request 31-2-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 4: Oroville City Elementary School District General Waiver Request 42-2-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 5: Visalia Unified School District General Waiver Request 66-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

### Summary Table

Waiver Number	Local Educational Agency	Period of Request	Demographics	Local Board Approval Date	Bargaining Unit Consulted – Date	Position of Bargaining Unit	Advisory Committee or School Site Council Consulted – Date	Position of committee/ council
95-1-2013	Chula Vista Elem SD	<b>Requested:</b> 06/13/2013 – 07/03/2013  <b>Recommended:</b> 06/13/2013 – 07/03/2013	Chula Vista Elem SD has a student population of 502 and is located in an urban area of San Diego County	01/23/2013	Chula Vista Educators  11/01/2012	Support	Special Education Parent Committee  08/08/2012	No objections
31-2-2013	Imperial COE	<b>Requested:</b> 06/17/2013 – 07/12/2013  <b>Recommended:</b> 06/17/2013 – 07/12/2013	Imperial County provides regionalized services to a student population of 424 in 16 districts in a rural area	02/12/2013	Imperial COE Teacher's Ass'n on 01/30/2013	Support	Imperial COE Board of Trustees, Imperial Valley Center for Exceptional Children School Site Council  02/12/2013	No objections
42-2-2013	Oroville City Elem SD	<b>Requested:</b> 06/10/2013 – 06/30/2013  <b>Recommended:</b> 06/10/2013 – 06/30/2013	Oroville City Elem SD has a student population of 2567 and is located in a small city in Butte County	02/06/2013	Oroville Elementary Teacher's Ass'n  01/07/2013  California School Employees Ass'n  11/28/2012	Support   Support	Oroville City Elem SD Board of Education  02/06/2013	No objections

Waiver Number	Local Educational Agency	Period of Request	Demographics	Local Board Approval Date	Bargaining Unit Consulted – Date	Position of Bargaining Unit	Advisory Committee or School Site Council Consulted – Date	Position of committee/ council
66-1-2013	Visalia USD	<b>Requested:</b> 06/01/2013 – 07/31/2015  <b>Recommended:</b> 06/01/2013 – 05/30/2015	Visalia USD has a student population of 27,000 and is located in an urban area of Tulare County	01/15/2013	Visalia Unified Teacher's Ass'n  12/21/2012  California School Employees Ass'n  01/15/2013	Neutral    Neutral	Visalia Unified School Board and Visalia USD Superintendent's Cabinet  01/15/2013	No objections

<b>California Department of Education WAIVER SUBMISSION - Specific</b>
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CD Code: 3768023

Waiver Number: 95-1-2013 Active Year: 2013

Date In: 1/31/2013 2:28:31 PM

Local Education Agency: Chula Vista Elementary School District  
Address: 84 East J St.  
Chula Vista, CA 91910

Start: 6/13/2013 End: 7/3/2013

Waiver Renewal: N

Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: Special Education Program

Ed Code Title: Extended School Year (Summer School)

Ed Code Section: *California Code of Regulations*, Title 5, Section 3043 (d)

Ed Code Authority: 33050

Ed Code or CCR to Waive: An extended year program shall be provided for a minimum of 20 instructional days, including holidays.

Outcome Rationale: CVESD requests a waiver to modify the required 20 day extended year (ESY) for special education students. There is no summer school for general education students in the District. For the 2012-13 school year, the District modified the calendar to be in close alignment with the secondary school district. This creates a short time period between school years. The 2012-13 school year ends on June 10 for students and June 11 for teachers. The 2013-14 school year starts on July 22, 2013 for teachers and July 24, 2013 for students. Holding a traditional 20 day ESY would provide a schedule of of June 13-July 11, 4 hours/ day, minus holiday (76 hours). This would provide a shortened time break period for students and staff, of only 8 days for staff and 10 days for students. Historically, it has been difficult to recruit staff for 20 days due to the shortened break. We end up needing to rely on substitutes to staff the program. Holding a modified ESY for 12 full days, will provide a schedule of June 13-28, 2013. This will be 7 hours/day (84 hours). This will provide a break period of 3 weeks for staff and students. Students will receive the comparable hours of instruction. Longer days can provide greater opportunity for instructional impact. Fewer days also save operational and transportation costs.

Student Population: 502

City Type: Urban

Public Hearing Date: 1/23/2013

Public Hearing Advertised: 1/23/2013; Posting 72 hours in public locations in District Office

Local Board Approval Date: 1/23/2013

Committee/Council Reviewed By: Special Education Patent Group  
Committee/Council Reviewed Date: August 8, 2012  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Deborah Wenbourne  
Position: Director for Special Education & Pupil Services  
E-mail: [deborah.wenbourne@cvesd.org](mailto:deborah.wenbourne@cvesd.org)  
Telephone: 619-425-9600 x1701  
Fax: 619-425-2704

Bargaining Unit: Date: 11/01/2012  
Name: Chula Vista Educators  
Representative: Jennefer Porch  
Title: President  
Position: Support  
Comments:

**California Department of Education  
WAIVER SUBMISSION - General**

CD Code: 1310132  
Year: 2013

Waiver Number: 31-2-2013

Active

Date In: 2/19/2013 12:19:54 PM

Local Education Agency: Imperial County Office of Education  
Address: 1398 Sperber Rd.  
El Centro, CA 92243

Start: 6/17/2013

End: 7/12/2013

Waiver Renewal: Y

Previous Waiver Number: 127-2-2012-W-9

Previous SBE Approval Date: 5/9/2012

Waiver Topic: Special Education Program  
Ed Code Title: Extended School Year (Summer School)  
Ed Code Section: CCR Title 5, 3043 (d)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: An Extended Year Program shall be provided for a minimum of [20 days], including holidays.

Outcome Rationale: The Imperial County Office of Education (ICOE) is proposing to operate a four week Extended School Year program for 4.75 hours per day for a total of: 16 days x 4.75 hours = 76 hours. The ICOE will be providing the same number of instructional hours (76 hours) as provided within the 20 instructional day calendar, including one holiday (19 days x 4 hours). The overall instructional time will remain the same; however, there will be a reduction in total days of attendance to 16 days over a four week period. The reduction in days will help to facilitate cost-effective services within the classroom, and reduce related costs for transportation, electricity, custodial services, administration, etc. We have also found that there is a drop in attendance during the final week of the ESY program. This was particularly evident when the ICOE offered a five week program and the instructional days extended beyond four weeks. We believe we will be able to maximize student learning by modifying the ESY schedule to four days per week with the extended daily instructional time.

Furthermore, the ICOE serves 16 Districts by providing regionalized services for students with moderate to severe intellectual disabilities. Two of the 16 Districts that are served by the ICOE are El Centro Elementary School District (ECESD) and Calexico Unified School District (CUSD), which houses the majority of the ICOE classrooms within their respective communities. Both of the aforementioned Districts have also made this same request for a reduction in total days of ESY. Should the ICOE and both the ECESD and CUSD be granted this waiver, transportation costs into the regionalized program would be less and thus benefit all of the remaining 15 Districts within the County. The ICOE feels that an increase in daily instructional time over a period of 16 days will result in educational benefit for our students, while supporting the needs of our local school districts. This waiver would also allow us to match our bell schedule to the district where our classrooms are operated which would allow for provision of FAPE and LRE.

Student Population: 424



City Type: Rural

Public Hearing Date: 2/12/2013

Public Hearing Advertised: Newspaper

Local Board Approval Date: 2/12/2013

Committee/Council Reviewed By: ICOE Board of Trustees, IVCEC School Site Council

Committee/Council Reviewed Date: 2/12/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Spencer Wavra

Position: Senior Director of Special Education

E-mail: swavra@icoe.org

Telephone: 760-312-6428

Fax:

Bargaining Unit: Date: 01/30/2013

Name: ICOETA

Representative: Yolanda Benito

Title: ICOETA President

Position: Support

Comments:

**California Department of Education  
WAIVER SUBMISSION - General**

CD Code: 0461507  
Year: 2013

Waiver Number: 42-2-2013

Active

Date In: 2/22/2013 3:05:58 PM

Local Education Agency: Oroville City Elementary School District  
Address: 2795 Yard St.  
Oroville, CA 95966

Start: 6/10/2013

End: 6/30/2013

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Special Education Program  
Ed Code Title: Extended School Year (Summer School)  
Ed Code Section: CCR, Title 5, Section 3043 (d)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 5 CCR 3043 – Extended School Year. Extended school year services shall be provided for each individual with exceptional needs who has unique needs and requires special education and related services in excess of the regular academic year. Such individuals shall have handicaps which are likely to continue indefinitely or for a prolonged period, and interruption of the pupil's educational programming may cause regression, when coupled with limited recoupment capacity, rendering it impossible or unlikely that the pupil will attain the level of self-sufficiency and independence that would otherwise be expected in view of his or her handicapping condition. The lack of clear evidence of such factors may not be used to deny an individual an extended school year program if the individualized education program team determines the need for such a program and includes extended school year in the individualized education program pursuant to subsection (f). [ (d) An extended year program shall be provided for a minimum of 20 instructional days, including holidays. ]

Outcome Rationale: Due to Oroville City Elementary School District's current AB 1200 status, the District proposes to provide Extended School Year (ESY) services to identified special education students utilizing a fifteen (15) day, five and one-half (5.50) hour per day instructional model. This will enable the District to align our schedule with the Butte County Office of Education (BCOE), which serves some of our students in their ESY program. BCOE support staff also provides needed services to our students during ESY. Transportation and support providers would then follow the same schedule for both agencies. In addition, fewer ESY days will result in substantial savings in transportation, utilities, and clerical costs.

Student Population: 2567

City Type: Small

Public Hearing Date: 2/6/2013

Public Hearing Advertised: A notice was posted at the District Office and at each school site; on the District's Website; and at two locations at the Butte County Office of Education.

Local Board Approval Date: 2/6/2013

Committee/Council Reviewed By: Oroville City Elementary School District Board of Education

Committee/Council Reviewed Date: 2/6/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Penny Chennell-Carter

Position: Superintendent

E-mail: pchennel@ocesd.org

Telephone: 530-532-3000 x3001

Fax: 530-532-3050

Bargaining Unit: Date: 11/28/2012

Name: California School Employees' Association

Representative: Carla Held

Title: President

Position: Support

Comments:

Bargaining Unit: Date: 01/07/2013

Name: Oroville Elementary Teachers Association

Representative: Tina Light

Title: President

Position: Support

Comments:

<b>California Department of Education WAIVER SUBMISSION - General</b>
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CD Code: 5472256  
Year: 2013

Waiver Number: 66-1-2013

Active

Date In: 1/16/2013 1:38:51 PM

Local Education Agency: Visalia Unified School District  
Address: 5000 West Cypress Ave.  
Visalia, CA 93277

Start: 6/1/2013

End: 7/31/2015

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Special Education Program  
Ed Code Title: Extended School Year (Summer School)  
Ed Code Section: CCR, Title 5, Section 3043 (d)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: (d) Extended School Year: An extended year program shall be provided for a minimum of 20 instructional days.

Outcome Rationale: The Visalia Unified School District's Special Education Department is proposing to change the extended year services (ESY – summer school) for our elementary students with disabilities who are eligible for ESY services. In previous years, the ESY program has been a five week program running four days per week for four hours per day. This meets the *California Code of Regulations*, Title 5 (5 CCR), Section 3043 requirements of offering a 20 day ESY program. For the 2013 ESY program, and for subsequent ESY programs, the district would like to provide a four week program running four days per week for five hours per day. The instructional minutes of the new calendar would be equal to the instructional minutes of the prior years' program. This proposal is to allow special education staff the opportunity to participate in staff development opportunities that occur in the summer and to provide a more economical program with regards to transportation and facilities costs.

Student Population: 27000

City Type: Urban

Public Hearing Date: 1/15/2013

Public Hearing Advertised: Agenda posted (physically) for the public 1/11/2013 through 1/15/2013 and by email to all VUSD sites and staff, and District website

Local Board Approval Date: 1/15/2013

Committee/Council Reviewed By: Visalia Unified School Board and VUSD Superintendent's Cabinet

Committee/Council Reviewed Date: 1/15/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Cara Peterson

Position: Director, Special Education

E-mail: cpeterson01@vusd.org

Telephone: 559-730-7581

Fax: 559-730-7351

Bargaining Unit: Date: 01/15/2013

Name: California School Employees Association

Representative: Monica Renegar Title: CSEA President

Position: Neutral

Comments:

Bargaining Unit: Date: 12/21/2012

Name: Visalia Unified Teachers Association

Representative: Karl Kildow Title: VUTA President

Position: Neutral

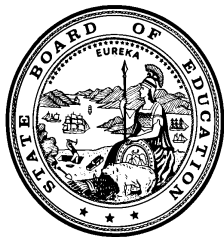
Comments:



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-19**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ Specific Waiver

SUBJECT	
Request by four districts, under the authority of California <i>Education Code</i> Section 41382, to waive portions of <i>Education Code</i> sections 41376(a), (c), and (d) and/or 41378(a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one through three, the overall class size average is 30 to one with no class larger than 32.	<input checked="" type="checkbox"/> Action
Waiver Numbers: Buena Park Elementary School District 56-2-2013 Buena Park Elementary School District 57-2-2013 Guadalupe Union Elementary School District 1-2-2013 Mountain View Elementary School District 11-2-2013 Mountain View Elementary School District 13-2-2013 Mountain View Elementary School District 50-2-2013 Mountain View Elementary School District 88-1-2013 Murrieta Valley Unified School District 113-12-2012 Murrieta Valley Unified School District 114-12-2012	<input checked="" type="checkbox"/> Consent

#### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE), based on the finding below, recommends that the class size penalties for kindergarten through grade three be waived provided that the overall average and individual class size average is not greater than the CDE recommended class size on Attachment 1. These waivers do not exceed two years less one day, therefore, *Education Code (EC)* Section 33051(b) will not apply, and the districts must reapply to continue the waiver.

The CDE also recommends that the State Board of Education (SBE) find that the class size penalty provisions of *Education Code (EC)* sections 41376 and/or 41378 will, if not waived, prevent the districts from developing more effective educational programs to improve instruction in reading and mathematics for students in the classes specified in the districts' applications.

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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Since September 2009, the SBE has approved all kindergarten through grade three class size penalty waiver requests as proposed by CDE. Before the September 2009 board meeting, no waivers had been submitted since 1999.

## **SUMMARY OF KEY ISSUES**

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*Education Code* Section 41382 allows the SBE to approve an exemption to the class size penalties assessed for kindergarten through grade three if the associated statutory class size requirements prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics. Under this authority, these districts are requesting a waiver of subdivisions (a) through (e) of *EC* Section 41378, which provide for a penalty if the average class size on a district-wide basis for kindergarten exceeds 31 students or individual class levels exceed 33, and/or subdivisions (a), (c), and (d) of *EC* Section 41376, which provide for a penalty if the average class size on a district-wide basis for grades one through three exceeds 30 students, or individual class levels exceed 32. Since this particular statute regarding class size limits was written in 1964, given the current fiscal environment in school districts statewide, consideration of these and similar waivers is warranted.

The districts listed on Attachment 1 request flexibility to temporarily increase class sizes in kindergarten and/or grades one through three to reduce expenditures in light of the statewide budget crisis and the associated reductions in revenue limit funds provided by the state. Since fiscal year 2008–09, most districts have experienced at least a 10 percent reduction in revenue limit funding in addition to the elimination of statutory cost of living adjustments. In fiscal year 2012–13 school district revenue limit is reduced by 23 percent. Furthermore, payments for over one-quarter of what they are due have been deferred until the next fiscal year. Based on the Governor's 2013–14 budget, the deferrals will not be eliminated until 2016–17 and it will take several years to restore the revenue limit reductions under existing law as well as through the proposed Local Control Funding Formula.

A positive certification is assigned to a school district that will meet its financial obligations in the current and two subsequent fiscal years. A qualified certification is assigned when a district may not meet its financial obligations for the current or two subsequent fiscal years. A negative certification is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year. Each district's most recent status is identified on Attachment 1.

To address funding reductions, districts are using various options in addition to increasing class size, including categorical program spending flexibility, reducing the number of days in the school year, employee furloughs, salary reductions, layoffs, or school closures. Each district states that without the waiver, the core reading and math programs will be compromised by the fiscal penalties incurred. The estimated annual penalty should the district increase the class size average without a waiver is provided on Attachment 1.



The Department recommends, based on the finding above, that the class size penalties for kindergarten through grade three be waived provided the overall average and the individual class size average is not greater than the CDE recommended level shown on Attachment 1. Should any district exceed this new limit, the class size penalty would be applied per statute.

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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See Attachment 1 for estimated penalty amounts for each district without the waiver approval.

### **ATTACHMENT(S)**

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- Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver. (2 pages)
- Attachment 2: Buena Park Elementary School District Specific Waiver Request 56-2-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 3: Buena Park Elementary School District Specific Waiver Request 57-2-2013 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 4: Guadalupe Union Elementary School District Specific Waiver Request 1-2-2013 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 5: Mountain View Elementary School District Specific Waiver Request 11-2-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 6: Mountain View Elementary School District Specific Waiver Request 13-2-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 7: Mountain View Elementary School District Specific Waiver Request 50-2-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 8: Mountain View Elementary School District Specific Waiver Request 88-1-2013 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 9: Murrieta Valley Unified School District Specific Waiver Request 113-12-2012 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 10: Murrieta Valley Unified School District Specific Waiver Request  
114-12-2012 (3 pages) (Original waiver request is signed and on file in  
the Waiver Office.)

## Districts Requesting Kindergarten through Grade 3 Class Size Penalty Waivers

*Education Code sections 41376 and 41378: For Kindergarten:  
Overall average 31; no class larger than 33. For Grades 1-3:  
Overall average 30; no class larger than 32.*

Waiver Number	District	Period of Request	District's Request	CDE Recommended (New Maximum)	Local Board and Public Hearing Approval Date	Bargaining Unit, Representative(s) Consulted, Date, and Position	Potential Annual Penalty Without Waiver	Fiscal Status	Previous Waivers
56-2-2013	Buena Park Elementary School District	<b>Requested:</b> July 1, 2013 to June 29, 2015  <b>Recommended:</b> July 1, 2013 to June 29, <b>2014</b>	For K: Overall average 34; no class size larger than 36	For K: Overall average 34; no class size larger than 36	2/25/13	Buena Park Teachers Association, Cameron Reiter, President 1/28/13 <b>Neutral</b>	\$223,902 each year	Qualified	Yes 7/1/11 to 6/29/13
57-2-2013	Buena Park Elementary School District	<b>Requested:</b> July 1, 2013 to June 29, 2015  <b>Recommended:</b> July 1, 2013 to June 29, <b>2014</b>	For 1-3: Overall average 34; no class size larger than 36	For 1-3: Overall average 34; no class size larger than 36	2/25/13	Buena Park Teachers Association, Cameron Reiter, President 1/28/13 <b>Neutral</b>	\$68,414 each year	Qualified	Yes 7/1/11 to 6/29/13
1-2-2013	Guadalupe Union Elementary School District	<b>Requested:</b> August 13, 2012 to June 30, 2013  <b>Recommended:</b> July 1, 2012 to June 29, 2013	For 1-3: Overall average 32; no class size larger than 33	For 1-3: Overall average 32; no class size larger than 33	11/8/12	Guadalupe Teachers Association, Terry Bauer, President 10/19/12 <b>Support</b>	\$34,507 FY 2012-13	Positive	No
11-2-2013	Mountain View Elementary School District	<b>Requested:</b> July 1, 2012 to June 29, 2013  <b>Recommended:</b> July 1, 2012 to June 29, 2013	For K: Overall average 33; no class size larger than 35	For K: Overall average 33; no class size larger than 35	1/24/13	Mountain View Teachers Association, Maria Elena Caballero, President 12/18/12 <b>Neutral</b>	\$9,700 FY 2012-13	Positive	No
13-2-2013	Mountain View Elementary School District	<b>Requested:</b> July 1, 2012 to June 29, 2013  <b>Recommended:</b> July 1, 2012 to June 29, 2013	For 1-3: Overall average 33; no class size larger than 35	For 1-3: Overall average 33; no class size larger than 35	1/24/13	Mountain View Teachers Association, Maria Elena Caballero, President 12/18/12 <b>Neutral</b>	\$494,700 FY 2012-13	Positive	No

## Districts Requesting Kindergarten through Grade 3 Class Size Penalty Waivers

*Education Code sections 41376 and 41378: For Kindergarten:  
Overall average 31; No class larger than 33. For Grades 1-3:  
Overall average 30; no class larger than 32.*

Waiver Number	District	Period of Request	District's Request	CDE Recommended (New Maximum)	Local Board and Public Hearing Approval Date	Bargaining Unit, Representative(s) Consulted, Date, and Position	Potential Annual Penalty Without Waiver	Fiscal Status	Previous Waivers
50-2-2013	Mountain View Elementary School District	<b>Requested:</b> July 1, 2013 to June 30, 2015  <b>Recommended:</b> July 1, 2013 to June 29, 2014	For K: Overall average 34; no class size larger than 34	For K: Overall average 34; no class size larger than 34	12/10/12	Association of Mountain View Teachers, Wanda Fonda, President 9/13/12 <b>Support</b>	\$161,628 each year	Qualified	No
88-1-2013	Mountain View Elementary School District	<b>Requested:</b> July 1, 2013 to June 30, 2015  <b>Recommended:</b> July 1, 2013 to June 29, 2014	For 1-3: Overall average 34; no class size larger than 34	For 1-3: Overall average 34; no class size larger than 34	12/10/12	Association of Mountain View Teachers, Wanda Fonda, President 9/13/12 <b>Support</b>	\$621,647 each year	Qualified	No
113-12-2012	Murrieta Valley Unified School District	<b>Requested:</b> July 1, 2012 to June 29, 2014  <b>Recommended:</b> July 1, 2012 to June 29, 2014	For K: Overall average 33; no class size larger than 35	For K: Overall average 33; no class size larger than 35	12/13/12	Murrieta Teachers Association, Kathy Ericson, President 12/17/12 <b>Support</b>	\$600,000 each year	Qualified	Yes 7/1/12 to 6/29/14
114-12-2012	Murrieta Valley Unified School District	<b>Requested:</b> July 1, 2012 to June 29, 2014  <b>Recommended:</b> July 1, 2012 to June 29, 2014	For 1-3: Overall average 33; no class size larger than 35	For 1-3: Overall average 33; no class size larger than 35	12/13/12	Murrieta Teachers Association, Kathy Ericson, President 12/17/12 <b>Support</b>	\$1,600,000 each year	Qualified	Yes 7/1/12 to 6/29/14

<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 3066456

Waiver Number: 56-2-2013

Active Year: 2013

Date In: 2/28/2013 10:34:07 AM

Local Education Agency: Buena Park Elementary School District  
Address: 6885 Orangethorpe Ave.  
Buena Park, CA 90620

Start: 7/1/2013

End: 6/29/2015

Waiver Renewal: Y

Previous Waiver Number: 26-4-2011-W2      Previous SBE Approval Date: 7/13/2011

Waiver Topic: Class Size Penalties

Ed Code Title: Over Limit on Kindergarten

Ed Code Section: portions of 41378 (a) through (e)

Ed Code Authority: 41382

Ed Code or CCR to Waive: *EC 41378*. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. [(a) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product]

Outcome Rationale: Education code states that class size averages in Kindergarten cannot exceed 31 students (with no classes larger than 33). With current state and federal budgetary challenges, coupled with years of declining enrollment, we are facing significant financial challenges. Although we have implemented numerous reductions to offset reduced funding levels (including implementation of furlough days, shortening of the school year, elimination of positions, health & welfare concessions, etc.), we need to continue to further reduce personnel costs to remain fiscally solvent. In July 2011, we sought and obtained from the State Board of Education a class size waiver permitting the District to increase average class sizes in Grades K-3 up to 34:1 for the 2011-12 and 2012-13 school years. This waiver expires June 29, 2013. We are requesting a renewal of this temporary waiver (2 years less one day) of *Education Code* 41376(a, c & d) penalties to allow for an average class size in grades 1-3 up to 34:1. Without this waiver, other reductions would need to be made that negatively affects core academic programs such as reading, mathematics and science.

The current collective agreement permits the increased class sizes specifying the following, "The target ratio of teachers to regular program pupils in grades 4-8 in the district shall be twenty-nine (29) pupils. In no case shall the ratio exceed thirty-one (31) per classroom.

However, contingent upon condition of an approved waiver authorized by the State Board of Education, the District shall be provided the flexibility to increase class size in Kindergarten through grade 8.”

Note: If the state budget crisis eases and Education is spared from further cuts, it is the district's intent to maintain class sizes at levels consistent with current education code requirements.

**Yes**

A principal may recommend to the governing board or the governing board of the school district may adopt a resolution determining that an exemption should be granted from any of the provisions of Section 41376 and 41378, with respect to such core classes on the basis that such provisions prevent the school and school district from developing more effective education programs to improve instruction in reading and mathematics. (Required see EC 41382)

A potential penalty of \$223,902 could be incurred by the district without this waiver.

Student Population: 5345

City Type: Urban

Local Board Approval Date: 2/25/2013

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Kelvin Tsunozumi  
Position: Asst. Supt., Admin. Services  
E-mail: ktsunozumi@bpsd.k12.ca.us  
Telephone: 714-736-4262  
Fax: 714-522-0843

Bargaining Unit: Date: 01/28/2013  
Name: Buena Park Teachers Association (BPTA)  
Representative: Cameron Reiter  
Title: BPTA President  
Position: Neutral  
Comments:

**California Department of Education**  
**WAIVER SUBMISSION - Specific**

CD Code: 3066456

Waiver Number: 57-2-2013

Active Year: 2013

Date In: 2/28/2013 10:49:58 AM

Local Education Agency: Buena Park Elementary School District  
Address: 6885 Orangethorpe Ave.  
Buena Park, CA 90620

Start: 7/1/2013 End: 6/29/2015

Waiver Renewal: Y

Previous Waiver Number: 26-4-2011-W-2 Previous SBE Approval Date: 7/13/2011

Waiver Topic: Class Size Penalties

Ed Code Title: Over Limit on Grades 1-3

Ed Code Section: portions of 41376 (a),(c) and (d)

Ed Code Authority: 41382

Ed Code or CCR to Waive: EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: [(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.] (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above. [(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3

reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.]

Outcome Rationale: Education code states that class size averages in grades 1-3 cannot exceed 30 students (with no classes larger than 32). With current state and federal budgetary challenges, coupled with years of declining enrollment, we are facing significant financial challenges. Although we have implemented numerous reductions to offset reduced funding levels (including implementation of furlough days, shortening of the school year, elimination of positions, health & welfare concessions, etc.), we need to continue to further reduce personnel costs to remain fiscally solvent. In July 2011, we sought and obtained from the State Board of Education a class size waiver permitting the District to increase average class sizes in Grades K-3 up to 34:1 for the 2011-12 and 2012-13 school years. This waiver expires June 29, 2013. We are requesting a renewal of this temporary waiver (2 years less one day) of *Education Code* 41376(a, c & d) penalties to allow for an average class size in grades 1-3 up to 34:1. Without this waiver, other reductions would need to be made that negatively affects core academic programs such as reading, mathematics and science.

The current collective agreement permits the increased class sizes specifying the following, "The target ratio of teachers to regular program pupils in grades 4-8 in the district shall be twenty-nine (29) pupils. In no case shall the ratio exceed thirty-one (31) per classroom. However, contingent upon condition of an approved waiver authorized by the State Board of Education, the District shall be provided the flexibility to increase class size in Kindergarten through grade 8."

Note: If the state budget crisis eases and Education is spared from further cuts, it is the district's intent to maintain class sizes at levels consistent with current education code requirements.

### **Yes**

A principal may recommend to the governing board or the governing board of the school district may adopt a resolution determining that an exemption should be granted from any of the provisions of Section 41376 and 41378, with respect to such core classes on the basis that such provisions prevent the school and school district from developing more effective education programs to improve instruction in reading and mathematics. (Required see EC 41382)

A potential penalty of \$68,414 could be incurred by the district without this waiver.

Student Population: 5345

City Type: Urban

Local Board Approval Date: 2/25/2013

Audit Penalty YN: N

Categorical Program Monitoring: N



Submitted by: Mr. Kelvin Tsunezumi  
Position: Asst. Supt., Admin. Services  
E-mail: ktsunezumi@bpsd.k12.ca.us  
Telephone: 714-736-4262  
Fax: 714-522-0843

Bargaining Unit: Date: 01/28/2013  
Name: Buena Park Teachers Association (BPTA)  
Representative: Cameron Reiter  
Title: BPTA President  
Position: Neutral  
Comments:

**California Department of Education**  
**WAIVER SUBMISSION - Specific**

CD Code: 4269203

Waiver Number: 1-2-2013

Active Year: 2013

Date In: 2/4/2013 10:11:12 AM

Local Education Agency: Guadalupe Union Elementary School District  
Address: 4465 Ninth St.  
Guadalupe, CA 93434

Start: 8/13/2012 End: 6/30/2013

Waiver Renewal: N

Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: Class Size Penalties

Ed Code Title: Over Limit on Grades 1-3

Ed Code Section: portions of 41376 (a), (c), and (d)

Ed Code Authority: 41382

Ed Code or CCR to Waive: EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) ~~For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above. ~~(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average~~

~~daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

Outcome Rationale: Due to State budget fiscal crisis and declining enrollment, our district could not afford to hire an additional teacher in First Grade. Our current student-teacher ratio is 30.4 to 1. It is not economically feasible to hire an additional teacher at this time.

**Yes**

A principal may recommend to the governing board or the governing board of the school district may adopt a resolution determining that an exemption should be granted from any of the provisions of Section 41376 and 41378, with respect to such core classes on the basis that such provisions prevent the school and school district from developing more effective education programs to improve instruction in reading and mathematics. (Required see EC 41382)

A potential penalty of \$34,507.00 could be incurred by the district without this waiver.

Student Population: 1182

City Type: Rural

Local Board Approval Date: 11/8/2012

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Kim Greer  
Position: Chief Business Official  
E-mail: kgreer@sbceo.org  
Telephone: 805-343-2114  
Fax:

Bargaining Unit: Date: 10/19/2012  
Name: Guadalupe Teachers Association  
Representative: Terry Bauer  
Title: Association President  
Position: Support  
Comments:

**Guadalupe Union School District  
Office of the Superintendent**

To: California Department of Education,

Please note that the core instructional programs for our district will be negatively impacted if we have to incur the attendance penalty due to class size penalty. As our budget continues to decrease and the majority of our budget goes directly to support instruction in Language Arts, Mathematics, Science and Social Studies any amount of money that we take away from our students and academic programs puts our students at risk. For that reason, the Board of Trustees of the Guadalupe Union School District and I urge you to consider accepting the waiver submitted.

Sincerely,

Ed Cora  
District Superintendent  
Guadalupe Union School District

<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 1964816

Waiver Number: 11-2-2013

Active Year: 2013

Date In: 2/12/2013 11:30:17 AM

Local Education Agency: Mountain View Elementary School District  
Address: 3320 Gilman Rd.  
El Monte, CA 91732

Start: 7/1/2012

End: 6/29/2013

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Class Size Penalties  
Ed Code Title: Over Limit on Kindergarten  
Ed Code Section: portions of 41378 (a) through (e)  
Ed Code Authority: 41382

Ed Code or CCR to Waive: *EC 41378*. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. [(a) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.]

Outcome Rationale: The District is experiencing its 5th straight year of State budget cuts. Since 2007-08 the budget has been reduced by 22%, from \$81 million to \$63 million. In addition, we have entered our 11th year of declining enrollment; dropping from 10,500 to 7,600 (27% drop). All efforts to reduce expenses at the rate of revenues being lost have proven to be extremely difficult. The non-replacement of vacant positions and reduction in force have caused class sizes to reach and exceed statutory limits for the first time in the history of the District.

Student Population: 7607

City Type: Suburban

Local Board Approval Date: 1/24/2013

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Gloria Diaz  
Position: Asst. Superintendent of Personnel Services  
E-mail: GDiaz@mtview.k12.ca.us  
Telephone: 626-652-4046  
Fax: 626-652-4044

Bargaining Unit: Date: 01/07/2013  
Name: CA School Employees Association  
Representative: Carlos Garcia  
Title: President  
Position: Neutral  
Comments:

Bargaining Unit: Date: 12/18/2012  
Name: Mountain View Teachers Association  
Representative: Maria Elena Caballero  
Title: President  
Position: Neutral  
Comments:

<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 1964816

Waiver Number: 13-2-2013

Active Year: 2013

Date In: 2/12/2013 11:56:45 AM

Local Education Agency: Mountain View Elementary School District  
Address: 3320 Gilman Rd.  
El Monte, CA 91732

Start: 7/1/2012

End: 6/29/2013

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Class Size Penalties

Ed Code Title: Over Limit on Grades 1-3

Ed Code Section: portions of 41376 (a) (c) and (d)

Ed Code Authority: 41382

Ed Code or CCR to Waive: *EC 41376 (a)(c) and (d)* The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: [(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.] (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above. [(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3

reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.]

Outcome Rationale: The District is experiencing its 5th straight year of State budget cuts. Since 2007-08 the budget has been reduced by 22%, from \$81 million to \$63 million. In addition, we have entered our 11th year of declining enrollment; dropping from 10,500 to 7,600 (27% drop). All efforts to reduce expenses at the rate of revenues being lost have proven to be extremely difficult. The non-replacement of vacant positions and reduction in force have caused class sizes to reach and exceed statutory limits for the first time in the history of the District.

Student Population: 7607

City Type: Suburban

Local Board Approval Date: 1/24/2013

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Gloria Diaz  
Position: Asst. Superintendent of Personnel Services  
E-mail: GDiaz@mtview.k12.ca.us  
Telephone: 626-652-4046  
Fax: 626-652-4044

Bargaining Unit: Date: 01/07/2013  
Name: Ca School Employees Association  
Representative: Carlos Garcia  
Title: President  
Position: Neutral  
Comments:

Bargaining Unit: Date: 12/18/2012  
Name: Mountain View Teachers Association  
Representative: Maria Elena Caballero  
Title: President  
Position: Neutral  
Comments:



<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 3667785

Waiver Number: 50-2-2013

Active Year: 2013

Date In: 2/27/2013 11:09:03 AM

Local Education Agency: Mountain View Elementary School District  
Address: 2585 S.Archibald Ave  
Ontario, CA 91761

Start: 7/1/2013

End: 6/30/2015

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Class Size Penalties  
Ed Code Title: Over Limit on Kindergarten  
Ed Code Section: portions of 41378 (a) through (e)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: *EC 41378*. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. [(a) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.]

Outcome Rationale: Mountain View School District requests the State Board of Education waive the class size requirements and penalties associated with in *Education Codes 41378* (Kindergarten) and 41376 (Grades 1-3 and 4-8) for the school years 2013-2014 and 2014-2015. The District is requesting that the average class size of the District in grades K, 1-3 and 4-8 not exceed a District average of 34.

Mountain View School District is a K-8 school district located in Ontario California. The current enrollment is 2737.

Mountain View School District has experienced continued declining enrollment (yearly average of approximately 2%) over the past 8 years and a dramatic decline in state revenue. The District has continued to deficit spend even though appropriate and timely efforts through program reductions/eliminations, staff reductions (layoffs and attrition), staff furlough days and conservation of resources have been made.

Mountain View School District has a self-qualified 1st Interim Budget in 2012-13 and does not show the resources to make our financial obligations in the third year of our multi-year

projection.

It is the intent of the Board of Trustees in Mountain View School District to raise class size for two years (2013-14 and 2014-15) to an average of up to 34 and reduce certificated staffing to eliminate the current trend of deficit spending.

Because of the extremely challenging fiscal environment the last 5 years, Mountain View School District's continued ability to maintain fiscal solvency while delivering appropriate instructional program is in jeopardy. The Board realizes that the District's continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the District would otherwise incur without the requested waiver. In these circumstances, the Board finds specifically that the class size penalty provisions of *Education Code* sections 41376 and 41378 will, if not waived prevent the District from developing more effective educational programs to improve instruction in reading and mathematics in Kindergarten through eighth grade.

**Yes**

A principal may recommend to the governing board or the governing board of the school district may adopt a resolution determining that an exemption should be granted from any of the provisions of Section 41376 and 41378, with respect to such core classes on the basis that such provisions prevent the school and school district from developing more effective education programs to improve instruction in reading and mathematics. (Required see EC 41382)

A potential penalty of \$161,628 could be incurred by the district without this waiver.

Student Population: 2737

City Type: Urban

Local Board Approval Date: 12/10/2012

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Sheri Staszewski  
Position: Chief Business Official  
E-mail: [sheri\\_staszewski@mtnview.k12.ca.us](mailto:sheri_staszewski@mtnview.k12.ca.us)  
Telephone: 909-947-2205  
Fax: 909-947-2291

Bargaining Unit: Date: 09/13/2012  
Name: Association of Mountain View Teachers (CTA)  
Representative: Wanda Fonda  
Title: President  
Position: Support  
Comments:

<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 3667785

Waiver Number: 88-1-2013

Active Year: 2013

Date In: 1/29/2013 12:57:09 PM

Local Education Agency: Mountain View Elementary School District  
Address: 2585 S. Archibald Ave.  
Ontario, CA 91761

Start: 7/1/2013 End: 6/30/2015

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Class Size Penalties

Ed Code Title: Over Limit on Grades 1-3

Ed Code Section: portions of 41376 (a), (c), and (d)

Ed Code Authority: 41382

Ed Code or CCR to Waive: EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: [(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.] (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above. [(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3

reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.]

Outcome Rationale: Mountain View School District requests the State Board of Education waive the class size requirements and penalties associated with in *Education Codes* 41378 (Kindergarten) and 41376 (Grades 1-3 and 4-8) for the school years 2013-2014 and 2014-2015. The District is requesting that the average class size of the District in grades K, 1-3 and 4-8 not exceed a District average of 34.

Mountain View School District is a K-8 school district located in Ontario California. The current enrollment is 2737.

Mountain View School District has experienced continued declining enrollment (yearly average of approximately 2%) over the past 8 years and a dramatic decline in state revenue. The District has continued to deficit spend even though appropriate and timely efforts through program reductions/eliminations, staff reductions (layoffs and attrition), staff furlough days and conservation of resources have been made.

Mountain View School District has a self-qualified 1st Interim Budget in 2012-13 and does not show the resources to make our financial obligations in the third year of our multi-year projection.

It is the intent of the Board of Trustees in Mountain View School District to raise class size for two years (2013-14 and 2014-15) to an average of up to 34 and reduce certificated staffing to eliminate the current trend of deficit spending.

Because of the extremely challenging fiscal environment the last 5 years, Mountain View School District's continued ability to maintain fiscal solvency while delivering appropriate instructional program is in jeopardy. The Board realizes that the District's continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the District would otherwise incur without the requested waiver. In these circumstances, the Board finds specifically that the class size penalty provisions of *Education Code* sections 41376 and 41378 will, if not waived prevent the District from developing more effective educational programs to improve instruction in reading and mathematics in Kindergarten through eighth grade.

### **Yes**

A principal may recommend to the governing board or the governing board of the school district may adopt a resolution determining that an exemption should be granted from any of the provisions of Section 41376 and 41378, with respect to such core classes on the basis that such provisions prevent the school and school district from developing more effective education programs to improve instruction in reading and mathematics. (Required see EC 41382)

A potential penalty of \$621,647.00 could be incurred by the district without this waiver.

Student Population: 2737

City Type: Urban

Local Board Approval Date: 12/10/2012

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Sheri Staszewski  
Position: Chief Business Official  
E-mail: [sheri\\_staszewski@mtnview.k12.ca.us](mailto:sheri_staszewski@mtnview.k12.ca.us)  
Telephone: 909-947-2205  
Fax: 909-947-2291

Bargaining Unit: Date: 09/13/2012  
Name: Association of Mountian View Teachers (CTA)  
Representative: Wanda Fonda  
Title: President  
Position: Support  
Comments:

<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 3375200

Waiver Number: 113-12-2012

Active Year: 2012

Date In: 12/21/2012 2:52:55 PM

Local Education Agency: Murrieta Valley Unified School District  
Address: 41870 McAlby Ct.  
Murrieta, CA 92562

Start: 7/1/2012 End: 6/29/2014

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Class Size Penalties  
Ed Code Title: Over Limit on Kindergarten  
Ed Code Section: portions of 41378 (a) through (e)  
Ed Code Authority: 41382

Ed Code or CCR to Waive: 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes.

[ (a) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class.

(b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33).

(c) The total number of pupils by which the average class size in the district exceeds 31.

(d) The greater number of pupils as determined in (b) or (c) above.

(e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.]

Outcome Rationale: Over the last four fiscal years, Murrieta Valley Unified School District has lost approximately <\$95.5M> in eligible revenue limit funding and is anticipating an additional loss of <\$33.7M> for the current fiscal year. In light of the continuing statewide budget crisis and reduced revenue Murrieta Valley Unified School District requests a waiver to increase the district-wide average number of pupils per full-time equivalent teacher in kindergarten from 31 per FTE (EC41378) to 33 per FTE with no class larger than 35.

In July 2012, the California State Board of Education approved a Specific Waiver Request to increase the district-wide average number of pupils per full-time equivalent teacher in kindergarten from 31 per FTE (EC41378) to 33 per FTE with no class larger than 33. The district experienced unanticipated enrollment growth when school opened in August 2012. Therefore, it is necessary to request a new waiver with the above mentioned ratios to accomodate this growth.

Class size flexibility, salary reductions with all bargaining units, and non-replacement of retirees

will allow MVUSD to continue effective instruction and intervention programs while addressing budget shortfalls. Without approval of this waiver, the financial penalties imposed on the district would have a detrimental effect on the district's operations and ability to maintain and improve instruction in all core subjects.

**Yes**

A principal may recommend to the governing board or the governing board of the school district may adopt a resolution determining that an exemption should be granted from any of the provisions of Section 41376 and 41378, with respect to such core classes on the basis that such provisions prevent the school and school district from developing more effective education programs to improve instruction in reading and mathematics. (Required see EC 41382)

A potential penalty of \$600,000 could be incurred by the district without this waiver.

Student Population: 23053

City Type: Small

Local Board Approval Date: 12/13/2012

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Stacy Matusek  
Position: Director, Fiscal Services  
E-mail: smatusek@murrieta.k12.ca.us  
Telephone: 951-696-1600 x1083  
Fax: 951-304-1533

Bargaining Unit: Date: 12/17/2012  
Name: Murrieta Teachers Association  
Representative: Kathy Ericson  
Title: President  
Position: Support  
Comments:

<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 3375200

Waiver Number: 114-12-2012

Active Year: 2012

Date In: 12/21/2012 3:03:31 PM

Local Education Agency: Murrieta Valley Unified School District  
Address: 41870 McAlby Ct.  
Murrieta, CA 92562

Start: 7/1/2012 End: 6/29/2014

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Class Size Penalties

Ed Code Title: Over Limit on Grades 1-3

Ed Code Section: portions of 41376 (a) (c) and (d)

Ed Code Authority: 41382

Ed Code or CCR to Waive: 41376. (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

[(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those

districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30. ]

(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:

(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.

(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.

(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.

[ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any,



under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.

(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ]

Outcome Rationale: Over the last four fiscal years, Murrieta Valley Unified School District has lost approximately <\$95.5M> in eligible revenue limit funding and is anticipating an additional loss of <\$33.7M> for the current fiscal year. In light of the of continuing statewide budget crisis and reduced revenue Murrieta Valley Unified School District requests a waiver to increase the district-wide average number of pupils per full-time equivalent teacher in grades 1st through 3rd from 30 per FTE (EC41376) to 33 per FTE with no class larger than 35.

In July 2012, the California State Board of Education approved a Specific Waiver Request to increase the district-wide average number of pupils per full-time equivalent teacher in grades 1st through 3rd from 30 per FTE (EC41378) to 32 per FTE with no class larger than 32. The district experienced unanticipated enrollment growth when school opened in August 2012. Therefore, it is necessary to request a new waiver with the above mentioned ratios to accommodate this growth.

Class size flexibility, salary reductions with all bargaining units, and non-replacement of retirees will allow MVUSD to continue effective instruction and intervention programs while addressing budget shortfalls. Without approval of this waiver, the financial penalties imposed on the district would have a detrimental effect on the district's operations and ability to maintain and improve instruction in all core subjects.

**Yes**

A principal may recommend to the governing board or the governing board of the school district may adopt a resolution determining that an exemption should be granted from any of the provisions of Section 41376 and 41378, with respect to such core classes on the basis that such provisions prevent the school and school district from developing more effective education programs to improve instruction in reading and mathematics. (Required see EC 41382)

A potential penalty of \$1,600,000 could be incurred by the district without this waiver.

Student Population: 23053

City Type: Small

Local Board Approval Date: 12/13/2012

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Stacy Matusek  
Position: Director, Fiscal Services  
E-mail: smatusek@murrieta.k12.ca.us  
Telephone: 951-696-1600 x1083  
Fax: 951-304-1533

Bargaining Unit: Date: 12/17/2012  
Name: California School Employees Association  
Representative: Susan Butler  
Title: President  
Position: Support  
Comments:

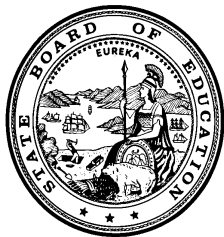
Bargaining Unit: Date: 12/17/2012  
Name: Murrieta Teachers Association  
Representative: Kathy Ericson  
Title: President  
Position: Support  
Comments:



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-20**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ Specific Waiver

##### SUBJECT

Request by **Montebello Unified School District**, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376(a), (c), and (d) and/or 41378(a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one through three, the overall class size average is 30 to one with no class larger than 32.

Waiver Number: 40-2-2013

☒ Action

☒ Consent

##### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE), based on the finding below, recommends that the class size penalties for kindergarten through grade three be waived provided that the overall average and individual class size average is not greater than the CDE recommended class size on Attachment 1. The waiver does not exceed two years less one day, therefore, *Education Code (EC)* Section 33051(b) will not apply, and the district must reapply to continue the waiver.

The CDE also recommends that the State Board of Education (SBE) find that the class size penalty provisions of *Education Code (EC)* sections 41376 and/or 41378 will, if not waived, prevent the districts from developing more effective educational programs to improve instruction in reading and mathematics for students in the classes specified in the districts' applications.

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since September 2009, the SBE has approved all kindergarten through grade three class size penalty waiver requests as proposed by CDE. Before the September 2009 board meeting, no waivers had been submitted since 1999.

##### SUMMARY OF KEY ISSUES

*Education Code* Section 41382 allows the SBE to approve an exemption to the class size penalties assessed for kindergarten through grade three if the associated statutory class size requirements prevent the school and school district from developing more

effective educational programs to improve instruction in reading and mathematics. Under this authority, Montebello Unified School District (USD) is requesting a waiver of subdivisions (a) through (e) of *EC* Section 41378, which provide for a penalty if the average class size on a district-wide basis for kindergarten exceeds 31 students or individual class levels exceed 33, and/or subdivisions (a), (c), and (d) of *EC* Section 41376, which provide for a penalty if the average class size on a district-wide basis for grades one through three exceeds 30 students, or individual class levels exceed 32. Since this particular statute regarding class size limits was written in 1964, given the current fiscal environment in school districts statewide, consideration of this and similar waivers is warranted.

The district listed on Attachment 1 requests flexibility to temporarily increase class sizes in kindergarten and grades one through three to reduce expenditures in light of the statewide budget crisis and the associated reductions in revenue limit funds provided by the state. Since fiscal year 2008–09, most districts have experienced at least a 10 percent reduction in revenue limit funding in addition to the elimination of statutory cost of living adjustments. In fiscal year 2012–13 school district revenue limit is reduced by 23 percent. Furthermore, payments for over one-quarter of what they are due have been deferred until the next fiscal year. Based on the Governor's 2013–14 Budget, the deferrals will not be eliminated until fiscal year 2016–17 and it will take several years to restore the revenue limit reductions under existing law as well as through the proposed Local Control Funding Formula.

A positive certification is assigned to a school district that will meet its financial obligations in the current and two subsequent fiscal years. A qualified certification is assigned when a district may not meet its financial obligations for the current or two subsequent fiscal years. A negative certification is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year. Montebello USD's most recent status is positive.

To address funding reductions, districts are using various options in addition to increasing class size, including categorical program spending flexibility, reducing the number of days in the school year, employee furloughs, salary reductions, layoffs, or school closures. The district states that without the waiver, the core reading and math programs will be compromised by the fiscal penalties incurred. The estimated annual penalty should the district increase the class size average without a waiver is provided on Attachment 1.

The Department recommends, based on the finding above, that the class size penalties for kindergarten through grade three be waived provided the overall average and the individual class size average is not greater than the CDE recommended level shown on Attachment 1. Should the district exceed this new limit, the class size penalty would be applied per statute.

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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See Attachment 1 for estimated penalty amount for Montebello USD if the waiver is not approved.

**ATTACHMENT(S)**

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Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver. (1 page)

Attachment 2: Montebello Unified School District Specific Waiver Request 40-2-2013 (4 pages) (Original waiver request is signed and on file in the Waiver Office.)

## Districts Requesting Kindergarten through Grade 3 Class Size Penalty Waivers

*Education Code* sections 41376 and 41378: For Kindergarten:  
Overall average 31; No class larger than 33. For Grades 1-3:  
Overall average 30; no class larger than 32.

Waiver Number	District	Period of Request	District's Request	CDE Recommended (New Maximum)	Local Board and Public Hearing Approval Date	Bargaining Unit, Representative(s) Consulted, Date, and Position	Potential Annual Penalty Without Waiver	Fiscal Status	Previous Waivers
40-2-2013	Montebello Unified School District	<b>Requested:</b> July, 1, 2013 to June 29, 2014  <b>Recommended:</b> July 1, 2013 to June 29, 2014	For K-3: Overall average 33; no class size larger than 33	For K-3: Overall average 33; no class size larger than 33	2/21/13	Montebello Teachers Association, Julian De La Torre, President, Kathy Schlotz, Executive Director 2/13/13 <b>Oppose</b>	\$1,800,000 FY 2012-13	Positive	Yes 7/1/11 to 6/29/13

<b>California Department of Education</b> <b>WAIVER SUBMISSION - Specific</b>
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CD Code: 1964808

Waiver Number: 40-2-2013

Active Year: 2013

Date In: 2/22/2013 12:34:38 PM

Local Education Agency: Montebello Unified School District  
Address: 123 South Montebello Blvd.  
Montebello, CA 90640

Start: 7/1/2013

End: 6/29/2014

Waiver Renewal: Y

Previous Waiver Number: 5-12-2010-W-2    Previous SBE Approval Date: 4/21/2011

Waiver Topic: Class Size Penalties

Ed Code Title: Over limit on Kindergarten - Grade 3

Ed Code Section: Section 41376 (a), (c) and (d) and 41378 (a) through (e)

Ed Code Authority: Section 41382

Ed Code or CCR to Waive: See Attached

Outcome Rationale: We are submitting this request to continue the flexibility of maintaining the District's current class averages for kindergarten through 3rd grade of 33:1 and individual class size of not to exceed 33. Because of this flexibility the District has been able to reduce staff by offering generous retirement plans and with NO layoff of either classified or certificated staff. Because of the uncertainty of the budget for the 2013-14 school; we are respectfully request a one year extension of the current class size provisions.

The District is process of implement a Comprehensive Learning Framework to improve the student performance in math, English language, reading and science and graduate students that are Critical Thinkers, Communicators, Collaborators and Creators. The reducing of class size at this time would cost the District \$1.8 million and the District is projected to deficit spend \$ 7.6 million with the 1.65% COLA included. This additional cost would slow down the District's ability to implement the Framework.

The District's current contract with the Montebello Teacher Association has class size K-4 of 33. "The administration shall create classes with thirty three (33) students or less."

**Yes**

A principal may recommend to the governing board or the governing board of the school district may adopt a resolution determining that an exemption should be granted from any of the provisions of Section 41376 and 41378, with respect to such core classes on the basis that such provisions prevent the school and school district from developing more effective education programs to improve instruction in reading and mathematics. (Required see EC 41382)

Student Population: 30632

City Type: Urban

Local Board Approval Date: 2/21/2013



Audit Penalty YN: N                      Categorical Program Monitoring: N

Submitted by: Ms. Cheryl Plotkin  
Position: Asst Supt Business Services  
E-mail: plotkin\_cheryl@montebello.k12.ca.us Telephone: 323-887-3194  
Fax: 323-887-3194

Bargaining Unit Date: 2/13/13  
Name: Montebello Teachers Association-CTA  
Representative: Julian De La Torre  
Title: President  
Position: Oppose  
Comments: see attached

Bargaining Unit Date: 2/13/13  
Name: Montebello Teachers Association-CTA  
Representative: Kathy Schlotz  
Title: Executive Director  
Position: Oppose  
Comments: see attached

Attachment Specific Waiver Request Montebello Unified School District

Education Code section to be waived

EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. ~~(a) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: ~~(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30. (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above. (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily~~

~~attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

Montebello Unified School District – Specific Waiver Class Size K-3

Montebello Teachers Associations opposition to waiver.

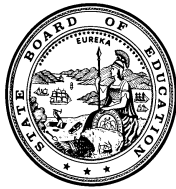
The Montebello Teachers Association opposes this wavier to increase class size for the following reasons: California's K-3 Class Size Reduction has proven to be successful. Smaller classes mean students are getting more valuable one-on one attention-leading to higher academic performance. Research has proven smaller classes improve academic achievement especially in ethnic minority and low income students. Increasing class size will not help narrow the achievement gap but simply be unfair to those students most in need. Our standards are the highest in the country. Boosting class size will make it more difficult to achieve those standards.



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-21**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

SUBJECT	
<p>Request by three districts to waive portions of California <i>Education Code</i> Section 41376(b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average.</p> <p>Waiver Numbers: Buena Park Elementary School District 58-2-2013 Lemon Grove School District 15-2-2013 Mountain View Elementary School District 89-1-2013</p>	<p><input checked="" type="checkbox"/> Action</p> <p><input checked="" type="checkbox"/> Consent</p>

#### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends that the class size penalty in grades four through eight be waived provided the class size average is not greater than the recommended new maximum average shown on Attachment 1 for each district. These waivers do not exceed two years less one day, therefore, *Education Code (EC)* Section 33051(b) will not apply, and the districts must reapply to continue the waiver.

#### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since September 2009, the State Board of Education (SBE) has approved all grades four through eight class size penalty waiver requests. Before the September 2009 board meeting, no waivers had been submitted since 1999.

#### SUMMARY OF KEY ISSUES

The various districts listed on Attachment 1 request a waiver of subdivisions (b) and (e) of *EC* Section 41376, which relates to class size penalties for grades four through eight that reduce a district's revenue limit funding. A class size penalty is assessed for grades four through eight if a district exceeds the greater of the district's class size average in 1964 or the statewide average set in 1964. Statewide, 292 districts out of 883 or 33 percent of districts in California can have a class size average greater than 29.9. The districts listed on Attachment 1 request to temporarily increase class sizes in grades four through eight to reduce expenditures in light of the statewide budget crisis and reductions in revenue limit funding. Since fiscal year 2008–09 most districts have experienced at least a 10 percent reduction in revenue limit funding in addition to the elimination of statutory cost of living adjustments. In fiscal year 2012-13 school district revenue limit is reduced by 23 percent. Furthermore, payments for over one-quarter of

what they are due have been deferred until the next fiscal year. Based on the Governor's 2013-14 Budget, the deferrals will not be eliminated until 2016-17 and it will take several years to restore the revenue limit reductions under the existing law as well as through the proposed Local Control Funding Formula.

A positive certification is assigned to a school district that will meet its financial obligations in the current and two subsequent fiscal years. A qualified certification is assigned when a district may not meet its financial obligations for the current or two subsequent fiscal years. A negative certification is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year. Each district's most recent status is identified on Attachment 1.

To address funding reductions, districts are using various options in addition to increasing class size, including categorical program spending flexibility, reducing the number of days in the school year, employee furloughs, salary reductions, layoffs, or school closures. The statutes being waived do not preclude a district from increasing class sizes above certain maximums. By denying the waiver, the SBE does not ensure that the districts will not raise class size averages and lose funding.

The Department recommends the class size penalty in grades four through eight be waived for each district provided the class size average is not greater than the recommended new maximum shown on Attachment 1. Should the district exceed this limit, the class size penalty would be calculated as required by statute. The estimated annual penalty should the district increase the class size average without a waiver is provided on Attachment 1.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a), available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>**

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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See Attachment 1 for estimated penalty amounts for each district without the waiver approval.

## **ATTACHMENT(S)**

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Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver. (1 page)

Attachment 2: Buena Park Elementary School District General Waiver Request 58-2-2013 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Lemon Grove School District General Waiver Request 15-2-2013 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 4: Mountain View Elementary School District General Waiver Request  
89-1-2013 (3 pages) (Original waiver request is signed and on file in the  
Waiver Office.)

## Districts Requesting Grades Four Through Eight Class Size Penalty Waivers

California *Education Code* Section 41376 (b) and (e): A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average.

Waiver Number	District	Period of Request	1964 Class Size Average (Current Maximum)	District's Request	CDE Recommended (New Maximum)	Bargaining Unit, Representatives Consulted, Date, and Position	Local Board and Public Hearing Approval Date	Potential Annual Penalty Without Waiver	Fiscal Status	Previous Waivers
58-2-2013	Buena Park Elementary School District	<b>Requested:</b> July 1, 2013 to June 29, 2015  <b>Recommended:</b> July 1, 2013 to June 29, <b>2014</b>	29.9	34	34	Buena Park Teachers Association, Cameron Reiter, President 1/28/13 <b>Neutral</b>	2/25/13	\$2,145,724 each year	Qualified	Yes 7/1/11 to 6/29/13
15-2-2013	Lemon Grove School District	<b>Requested:</b> July 1, 2013 to June 30, 2014  <b>Recommended:</b> July 1, 2013 to June 29, 2014	29.9	35	35	Lemon Grove Teachers Association, Pierre Finney, President 2/12/13 <b>Support</b>	2/12/13	\$537,682 FY 2013-14	Positive	Yes 7/1/11 to 6/29/13
89-1-2013	Mountain View Elementary School District	<b>Requested:</b> July 1, 2013 to June 30, 2015  <b>Recommended:</b> July 1, 2013 to June 29, <b>2014</b>	29.9	34	34	Association of Mountain View Teachers, Wanda Fonda, President 9/13/12 <b>Support</b>	12/10/13	\$1,008,160 each year	Qualified	No



**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3066456

Waiver Number: 58-2-2013

Active Year: 2013

Date In: 2/28/2013 11:14:00 AM

Local Education Agency: Buena Park Elementary School District  
Address: 6885 Orangethorpe Ave.  
Buena Park, CA 90620

Start: 7/1/2013

End: 6/29/2015

Waiver Renewal: Y

Previous Waiver Number: 25-4-2011-W-1    Previous SBE Approval Date: 7/13/2011

Waiver Topic: Class Size Penalties  
Ed Code Title: Over Limit on Grades 4-8  
Ed Code Section: portions of 41376 (b) and (e)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30. [(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.] (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3

reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. [(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.]

Outcome Rationale: Education code states that class size averages in grades 4-8 cannot exceed the larger of 29.9 or the class size average of the district in 1964 (i.e. 27.4). For Buena Park, the limit is therefore 29.9. With current state and federal budgetary challenges, coupled with years of declining enrollment, we are facing significant financial challenges. Although we have implemented numerous reductions to offset reduced funding levels (including implementation of furlough days, shortening of the school year, elimination of positions, health & welfare concessions, etc.), we need to continue to further reduce personnel costs to remain fiscally solvent. In July 2011, we sought and obtained from the State Board of Education a class size waiver permitting the District to increase average class sizes in Grades 4-8 up to 34:1 for the 2011-12 and 2012-13 school years. This waiver expires June 29, 2013. We are requesting a renewal of this temporary waiver (2 years less one day) of *Education Code* 41376(b) penalties to allow for an average class size in grades 4-8 from 29.9:1 to 34:1. Without this waiver, other reductions would need to be made that negatively affects core academic programs such as reading, mathematics and science.

The current collective agreement permits the increased class sizes specifying the following, "The target ratio of teachers to regular program pupils in grades 4-8 in the district shall be twenty-nine (29) pupils. In no case shall the ratio exceed thirty-one (31) per classroom. However, contingent upon condition of an approved waiver authorized by the State Board of Education, the District shall be provided the flexibility to increase class size in Kindergarten through grade 8."

Note: If the state budget crisis eases and Education is spared from further cuts, it is the district's intent to maintain class sizes at levels consistent with current education code requirements.

A potential penalty of \$2,145,724 could be incurred by the district without this waiver.

Student Population: 5345

City Type: Urban

Public Hearing Date: 2/25/2013

Public Hearing Advertised: Posted in District Office & on our website

Local Board Approval Date: 2/25/2013

Committee/Council Reviewed By: District Advisory Council & School Site Council  
Representatives

Committee/Council Reviewed Date: 1/17/2013

Committee/Council Objection: Y

Committee/Council Objection Explanation: Larger class size may negatively impact academics  
and increase student absence

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Kelvin Tsunozumi  
Position: Asst. Supt., Admin. Services  
E-mail: KTsunozumi@bpsd.k12.ca.us  
Telephone: 714-736-4262  
Fax: 714-522-0843

Bargaining Unit: Date: 01/28/2013  
Name: Buena Park Teachers Association (BPTA)  
Representative: Cameron Reiter  
Title: BPTA President  
Position: Neutral  
Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3768205

Waiver Number: 15-2-2013

Active Year: 2013

Date In: 2/13/2013 3:14:20 PM

Local Education Agency: Lemon Grove School District  
Address: 8025 Lincoln St.  
Lemon Grove, CA 91945

Start: 7/1/2013

End: 6/30/2014

Waiver Renewal: Y

Previous Waiver Number: 10-7-2011-W-7    Previous SBE Approval Date: 11/11/2011

Waiver Topic: Class Size Penalties  
Ed Code Title: Over Limit on Grades 4-8  
Ed Code Section: portions of 41376 (b) and (e)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: Strike the following within Ed Code 41376:

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30. ~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above. (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in~~

average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

Outcome Rationale: The District requests a waiver to temporarily increase class size in grades 4-8 in order to reduce expenditures. The District faces severe fiscal challenges as a result of a decade of declining enrollment and persistent State funding reductions to Education.

The District has done everything possible to maintain reasonable class sizes however due to lack of funding, we are forced to increase class size to avoid more demoralizing program cuts and to mitigate layoffs.

Our grades 4-8 statutory class size from 1964 is 29.9. We are requesting a waiver for class sizes to be an average of 35 in these same grades.

The staffing cost savings from a temporary increase in class size is crucial for our District to remain fiscally solvent.

A potential penalty of \$537,682 could be incurred by the district without this waiver.

Student Population: 3904

City Type: Small

Public Hearing Date: 2/12/2013

Public Hearing Advertised: Posted a formal notice at each school and in three public places in the district

Local Board Approval Date: 2/12/2013

Committee/Council Reviewed By: LGSD PTC Council

Committee/Council Reviewed Date: 2/12/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Gina Potter  
Position: Asst. Superintendent of Business Services  
E-mail: gpotter@lgsd.k12.ca.us  
Telephone: 619-825-5608  
Fax: 619-461-4539

Bargaining Unit: Date: 02/12/2013  
Name: Lemon Grove Teachers' Association (LGTA)  
Representative: Pierre Finney  
Title: LGTA President  
Position: Support  
Comments:

<b>California Department of Education</b> <b>WAIVER SUBMISSION - General</b>
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CD Code: 3667785

Waiver Number: 89-1-2013

Active Year: 2013

Date In: 1/29/2013 2:06:13 PM

Local Education Agency: Mountain View Elementary School District  
Address: 2585 S. Archibald Ave.  
Ontario, CA 91761

Start: 7/1/2013

End: 6/30/2015

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Class Size Penalties  
Ed Code Title: Over Limit on Grades 4-8  
Ed Code Section: portions of 41376 (b) and (e)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30. [(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.] (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3

reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. (e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product. ]

A potential penalty of \$1,088,160.00 could be incurred by the district without this waiver.

Outcome Rationale: Mountain View School District requests the State Board of Education waive the class size requirements and penalties associated with in *Education Codes* 41378 (Kindergarten) and 41376 (Grades 1-3 and 4-8) for the school years 2013-2014 and 2014-2015. The District is requesting that the average class size of the District in grades K, 1-3 and 4-8 not exceed a District average of 34.

Mountain View School District is a K-8 school district located in Ontario California. The current enrollment is 2737.

Mountain View School District has experienced continued declining enrollment (yearly average of approximately 2%) over the past 8 years and a dramatic decline in state revenue. The District has continued to deficit spend even though appropriate and timely efforts through program reductions/eliminations, staff reductions (layoffs and attrition), staff furlough days and conservation of resources have been made.

Mountain View School District has a self-qualified 1st Interim Budget in 2012-13 and does not show the resources to make our financial obligations in the third year of our multi-year projection.

It is the intent of the Board of Trustees in Mountain View School District to raise class size for two years (2013-14 and 2014-15) to an average of up to 34 and reduce certificated staffing to eliminate the current trend of deficit spending.

Because of the extremely challenging fiscal environment the last 5 years, Mountain View School District's continued ability to maintain fiscal solvency while delivering appropriate instructional program is in jeopardy. The Board realizes that the District's continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the District would otherwise incur without the requested waiver. In these circumstances, the Board finds specifically that the class size penalty provisions of *Education Code* sections 41376 and 41378 will, if not waived prevent the District from developing more effective educational programs to improve instruction in reading and mathematics in Kindergarten through eighth grade.



Student Population: 2737

City Type: Urban

Public Hearing Date: 12/10/2012

Public Hearing Advertised: Posted at the District Office, Community Bulletin Board, all School Sites and District Website

Local Board Approval Date: 12/10/2012

Committee/Council Reviewed By: District Area Council

Committee/Council Reviewed Date: 1/14/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Sheri Staszewski

Position: Chief Business Official

E-mail: [sheri\\_staszewski@mtnview.k12.ca.us](mailto:sheri_staszewski@mtnview.k12.ca.us)

Telephone: 909-947-2205

Fax: 909-947-2291

Bargaining Unit: Date: 09/13/2012

Name: Association of Mountain View Teachers (CTA)

Representative: Wanda Fonda

Title: President

Position: Support

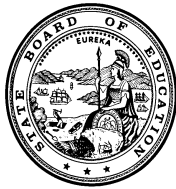
Comments:



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-22**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by **Hemet School District** for a renewal to waive portions of California *Education Code* Section 41376(b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average.

Waiver Number: 27-2-2013

☒ Action

☒ Consent

#### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends that the class size penalty in grades four through eight be waived provided the class size average is not greater than the recommended new maximum average shown on Attachment 1. The waiver does not exceed two years less one day, therefore, *Education Code (EC)* Section 33051(b) will not apply, and the district must reapply to continue the waiver.

#### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since September 2009, the State Board of Education (SBE) has approved all grades four through eight class size penalty waiver requests. Before the September 2009 board meeting, no waivers had been submitted since 1999.

#### SUMMARY OF KEY ISSUES

The Hemet Unified School District (USD) requests a waiver of subdivisions (b) and (e) of *EC* Section 41376, which relates to class size penalties for grades four through eight that reduce a district's revenue limit funding. A class size penalty is assessed for grades four through eight if a district exceeds the greater of the district's class size average in 1964 or the statewide average set in 1964. Statewide, 292 districts out of 883 or 33 percent of districts in California can have a class size average greater than 29.9. The district requests to temporarily increase class sizes in grades four through eight to reduce expenditures in light of the statewide budget crisis and reductions in revenue limit funding. Since 2008-09, most districts have experienced at least a 10 percent reduction in revenue limit funding in addition to the elimination of statutory cost of living adjustments. In fiscal year 2012-13, school district revenue limit is reduced by 23 percent. Furthermore, payments for over one-quarter of what they are due have been

deferred until the next fiscal year. Based on the Governor's 2013-14 Budget, the deferrals will not be eliminated until 2016-17 and it will take several years to restore the revenue limit reductions under existing law as well as through the proposed Local Control Funding Formula.

A positive certification is assigned to a school district that will meet its financial obligations in the current and two subsequent fiscal years. A qualified certification is assigned when a district may not meet its financial obligations for the current or two subsequent fiscal years. A negative certification is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year. Hemet USD's most recent status is qualified.

To address funding reductions, districts are using various options in addition to increasing class size, including categorical program spending flexibility, reducing the number of days in the school year, employee furloughs, salary reductions, layoffs, or school closures. The statutes being waived do not preclude the district from increasing class sizes above certain maximums. By denying the waiver, the SBE does not ensure that the districts will not raise class size averages and lose funding.

The Department recommends the class size penalty in grades four through eight be waived provided the class size average is not greater than the recommended new maximum shown on Attachment 1. Should the district exceed this limit, the class size penalty would be calculated as required by statute.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a), available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>**

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### **FISCAL ANALYSIS (AS APPROPRIATE)**

See Attachment 1 for estimated penalty amounts for Hemet USD if the waiver is not approved.

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### **ATTACHMENT(S)**

Attachment 1: List of Waiver Number(s), District(s), and Information Regarding Each Waiver (1 page)

Attachment 2: Hemet Unified School District General Waiver Request 27-2-2013 (4 pages) (Original waiver request is signed and on file in the Waiver Office.)

## Districts Requesting Grades Four Through Eight Class Size Penalty Waivers

California *Education Code* Section 41376 (b) and (e): A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average.

Waiver Number	District	Period of Request	1964 Class Size Average (Current Maximum)	District's Request	CDE Recommended (New Maximum)	Bargaining Unit, Representatives Consulted, Date, and Position	Local Board and Public Hearing Approval Date	Potential Annual Penalty Without Waiver	Fiscal Status	Previous Waivers
27-2-2013	Hemet Unified School District	<b>Requested:</b> July 1, 2013 to June 30, 2014  <b>Recommended:</b> July 1, 2013 to June 29, 2014	29.9	34	34	Hemet Teachers Association, Robert Hudson, President 2/2/13 <b>Oppose</b>	2/12/13	\$2,051,663 FY 2013-14	Qualified	Yes 7/1/12 to 6/29/13

Created by California Department of Education  
March 11, 2013

<b>California Department of Education</b> <b>WAIVER SUBMISSION – General Waiver</b>
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CD Code: 3367082

Waiver Number: 27-2-2013

Active Year: 2013

Date In: 2/14/2013 3:04:31 PM

Local Education Agency: Hemet Unified School District  
Address: 1791 West Acacia Ave.  
Hemet, CA 92545

Start: 7/1/2013

End: 6/30/2014

Waiver Renewal: Y

Previous Waiver Number: 65-1-2012-W-29

Previous SBE Approval Date: 5/10/2012

Waiver Topic: Class Size Penalties  
Ed Code Title: Over Limit on Grades 4-8  
Ed Code Section: portions of 41376 (b) and (e)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: Item 6: *EC* to be waived  
To Waive the Class Size Penalty (Grades 4-8) Prospectively or Retroactively  
*EC* 41376 (b) and (e)

The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class.

For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.

[ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:

(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.

(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.

(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.]

(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.

(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.

[ (e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:

He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.]

(f) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:

He shall add to the product determined under subdivision (c) of this section, the product determined under subdivision (e) of this section and decrease the average daily attendance reported under the provisions of Section 41601 by this total amount.

The governing board of each school district maintaining elementary schools shall report for the fiscal year 1964-65 and each year thereafter the information required for the determination to be made by the Superintendent of Public Instruction under the provisions of this section in accordance with instructions provided on forms furnished and prescribed by the Superintendent of Public Instruction. Such information shall be reported by the school district together with, and at the same time as, the reports required to be filed for the second principal apportionment of the State School Fund. The forms on which the data and information is reported shall include a certification by each school district superintendent or chief administrative officer that the data is correct and accurate for the period covered, according to his best information and belief.

For purposes of this section, a "full-time equivalent classroom teacher" means an employee of an elementary, high school, or unified school district, employed in a position requiring certification qualifications and whose duties require him to teach pupils in the elementary schools of that district in regular day classes for the full time for which he is employed during the regular schoolday. In reporting the total number of full-time equivalent classroom teachers, there shall be included, in addition to those employees defined above, the full-time equivalent of all fractional time for which employees in positions requiring certification qualifications are required to devote to teaching pupils in the elementary schools of the district in regular day classes during the regular schoolday.

For purposes of this section, the number of pupils enrolled in each class means the average of the active enrollment in that class on the last teaching day of each school month which ends prior to April 15th of each school year.

The provisions of this section are not applicable to school districts with less than 101 units of average daily attendance for the current fiscal year.

Although no decreases in average daily attendance shall be made for the fiscal year 1964-65, reports are required to be filed under the provisions of this section, and the Superintendent of Public Instruction shall notify each school district the amount of the decrease in state allowances which would have been effected had such decrease in average daily attendance been applied.

The Superintendent of Public Instruction shall adopt rules and regulations which he may deem necessary for the effective administration of this section. Such rules and regulations may specify that no decrease in average daily attendance reported under the provisions of Section 41601 shall be made for a school district on account of large classes due to instructional television or team teaching, which may necessarily involve class sizes at periods during the day larger than the standard set forth in this section.

Outcome Rationale: The district requests a waiver to increase the district-wide average number of pupils per each full-time equivalent (FTE) from the current 29.9 per FTE (per ED 41376) to 34 per FTE for grades 4 through 8.

To meet the requirements of EC 41376, the district has to continually add staff at an average cost per new teacher of \$70,000. In light of the current statewide budget crisis and the reduced revenue to school districts, this additional staffing cost has a detrimental effect on the district's operations and ability to provide services.

A potential penalty of \$2,051,663 could be incurred by the district without this waiver.

Student Population: 21162

City Type: Small

Public Hearing Date: 2/12/2013

Public Hearing Advertised: Newspaper, School website and School Sites

Local Board Approval Date: 2/12/2013

Committee/Council Reviewed By: District Advisory Committee

Committee/Council Reviewed Date: 1/30/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Vincent Christakos

Position: Assistant Superintendent, Business Services

E-mail: vchristakos@hemetusd.k12.ca.us



Telephone: 951-765-5100 x5000  
Fax: 951-766-0629

Bargaining Unit:

Date: 02/07/2013

Name: Hemet Teachers Association

Representative: Robert Hudson

Title: President

Position: Oppose

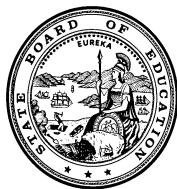
Comments: Increasing class size at grades 4-8 will place an undue burden upon our bargaining unit members.



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-23**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by **West Contra Costa Unified School District** for a renewal to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act.

Waiver Number: 20-2-2013

☒ Action

☒ Consent

##### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

See Attachment 1 for details.

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The California Department of Education (CDE) Waiver Office has previously presented requests to the State Board of Education (SBE) to waive the class size reduction (CSR) target as defined by the Quality Education Investment Act (QEIA). Over 90 percent of CSR waiver requests previously presented have requested adjusted class size averages of 25.0 or lower, and have indicated a commitment to meeting that target for the life of the grant; because of the current fiscal climate, these have been approved by the SBE. A small number of CSR waiver requests have proposed CSR targets above 25.0; these have been denied. However, it is noted that QEIA is supplemental funding. Therefore, the CDE will continue to weigh QEIA CSR in the context of fiscal changes. If class sizes are generally decreased in the coming year, the CDE would expect proportional decreases in QEIA class sizes.

##### SUMMARY OF KEY ISSUES

###### Class Size Reduction

Schools participating in the QEIA program were monitored by their county offices of education for compliance with program requirements for the first time at the end of the 2008–09 school year. At that time, local educational agencies (LEAs) were required to demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year. QEIA schools were required to demonstrate full compliance with all program requirements at the end of the 2010–11 school year.

QEIA schools are required to reduce class sizes by 5 students compared to class sizes in the base year (either 2005–06 or 2006–07), or to an average of 25 students per classroom, whichever is lower, with no more than 27 students per classroom regardless of the average classroom size. The calculation is done by grade level, as each grade level has a target average class size based on QEIA CSR rules. For small schools with a single classroom at each grade level, some grade level targets may be very low. If, for example, a school had a single grade four classroom of 15 students in 2005–06, the school's target QEIA class size for grade four is 10 students. Absent a waiver, an unusually low grade level target may result in a greater number of combination classes at the school, or very small classes at the grade level, which is prohibitively costly and may result in withdrawal or termination from the program.

QEIA schools are required to not increase any other (non-core) class sizes in the school above the size used during the 2005–06 school year.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC 33051(a)*, available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.**

#### **FISCAL ANALYSIS (AS APPROPRIATE)**

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There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the CSR targets based on statute requirements to stay in the program. Any school in the program not meeting those targets will risk the loss of future funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded).

#### **ATTACHMENT(S)**

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Attachment 1: West Contra Costa Unified School District Request 20-2-2013 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)

Attachment 2: West Contra Costa Unified School District General Waiver Request 20-2-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

**Waiver Number:** 20-2-2013  
2014

**Period of Request:** July 1, 2012, to June 30,

2014

**Period Recommended:** July 1, 2012, to June 29,

Helms Middle School  
West Contra Costa Unified School District

**CDS Code:** 07 61796 6057228

**Local Educational Agency Request:**

West Contra Costa Unified School District (USD) is an urban district located in Contra Costa County with a student population of approximately 29,978 students. Helms Middle School (MS) serves 950 students in grades seven and eight. Monitoring performed by the Contra Costa County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Helms MS in school year 2011–12 as a result of a waiver granted through June 29, 2012. The district is asking to extend the waiver to establish an alternate QEIA non-core target for school years 2012–13 and 2013–14. The school's current QEIA non-core class size target for grades seven and eight is 32.4.

West Contra Costa USD states that the current non-core class size reduction goal of 32.4 is unattainable for Helms MS using the funding available. The district further states that during the mandated base calculation year of 2005–06, Helms MS experienced a statistical anomaly that caused non-core class sizes to be artificially low. In 2004–09, teachers elected, without additional pay, to teach six periods in order to alleviate the impacted schedules of the majority of Helms MS students who were required to take English Language Development and either a math or reading intervention course. Due to this abnormal configuration during the critical base year, the district states, the QEIA funded non-core CSR numbers were skewed lower than they would have been if the teachers had been teaching the standard five periods a day.

West Contra Costa USD requests a waiver of the QEIA non-core class size targets for grades seven and eight at Helms MS for school years 2012–13 and 2013–14, and the establishment of an alternative non-core class size target of 38.9 on average in grades seven and eight.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports West Contra Costa USD's request to increase its QEIA non-core class size targets for grades seven and eight at Helms MS for school years 2012–13 and 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to grades seven and eight at Helms MS for school years 2012–13 and 2013–14; (2) Helms MS increases enrollment to 38.9 students per non-core class in grades seven and eight; and (3) Within 30 days of approval of this waiver, West Contra Costa USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Helms MS Schoolsite Council on January 12, 2012.

Supported by United Teachers of Richmond, January 10, 2012.

**Local Board Approval:** February 1, 2012.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0761796      Waiver Number: 20-2-2013      Active Year: 2013

Date In: 2/14/2013 11:44:05 AM

Local Education Agency: West Contra Costa Unified School District  
Address: 1108 Bissell Ave.  
Richmond, CA 94801

Start: 7/1/2012      End: 6/30/2014

Waiver Renewal: Y  
Previous Waiver Number: 125-2-2012-W-32      Previous SBE Approval Date: 5/10/2012

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: [Not increase any other class size in the school above the size used during the 2005-06 school year]

Outcome Rationale: We consider class size reduction to be one of the most important interventions available to move students to proficient levels. However, the current non-core class size reduction goal of 32.4 is unattainable for Helms using the funding available. During the mandated base calculation year of 2005-06, Helms experienced a statistical anomaly which caused non-core class sizes to be artificially low. From 2004-05 to 2008-09 teachers elected, without additional pay, to teach six periods in order to alleviate the impacted schedules of the majority of Helms students who were required to take ELD and either a math or reading intervention course. This configuration increased the total number of sections for the school and hence lowered average class size as recorded in CBEDS data.

Student Population: 950

City Type: Urban

Public Hearing Date: 2/1/2012  
Public Hearing Advertised: Notice posted at each school

Local Board Approval Date: 2/1/2012

Committee/Council Reviewed By: Helms School Site Council  
Committee/Council Reviewed Date: 1/12/2012  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Lyn Potter  
Position: Director Educational Services  
E-mail: lpotter@wccusd.net  
Telephone: 510-307-4500  
Fax:

Bargaining Unit: Date: 01/10/2012  
Name: United Teachers of Richmond  
Representative: Diane Brown  
Title: President  
Position: Support  
Comments:

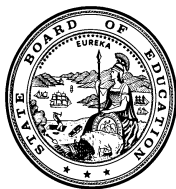




# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-24**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by eight local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act.

Waiver Numbers: Hilmar Unified 30-2-2013

Lynwood Unified 24-3-2013

Montebello Unified 83-1-2013

Montebello Unified 84-1-2013

Oakland Unified 39-1-2013

Oakland Unified 40-1-2013

Oakland Unified 41-1-2013

Oakland Unified 43-1-2013

Oakland Unified 44-1-2013

Oakland Unified 45-1-2013

Oakland Unified 46-1-2013

Ontario-Montclair Elementary 74-1-2013

Ontario-Montclair Elementary 76-1-2013

Ontario-Montclair Elementary 77-1-2013

Ontario-Montclair Elementary 78-1-2013

Orange Unified 43-2-2013

Orange Unified 44-2-2013

Orange Unified 45-2-2013

Paramount Unified 21-2-2013

Paramount Unified 22-2-2013

Paramount Unified 23-2-2013

Perris Elementary 6-1-2013

Perris Elementary 51-3-2013

Perris Elementary 52-3-2013

☒ Action

☐ Consent

##### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

See Attachments 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45, and 47 for details.

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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The California Department of Education (CDE) Waiver Office has previously presented requests to the State Board of Education (SBE) to waive the class size reduction (CSR) target as defined by the Quality Education Investment Act (QEIA). Over 90 percent of CSR waiver requests previously presented have requested adjusted class size averages of 25.0 or lower, and have indicated a commitment to meeting that target for the life of the grant; because of the current fiscal climate, these have been approved by the SBE. A small number of CSR waiver requests have proposed CSR targets above 25.0; these have been denied. However, it is noted that QEIA is supplemental funding. Therefore, the CDE will continue to weigh QEIA CSR in the context of fiscal changes. If class sizes are generally decreased in the coming year, the CDE would expect proportional decreases in QEIA class sizes.

## **SUMMARY OF KEY ISSUES**

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### **Class Size Reduction**

Schools participating in the QEIA program were monitored by their county offices of education for compliance with program requirements for the first time at the end of the 2008–09 school year. At that time, local educational agencies (LEAs) were required to demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year. QEIA schools were required to demonstrate full compliance with all program requirements at the end of the 2010–11 school year.

QEIA schools are required to reduce class sizes by 5 students compared to class sizes in the base year (either 2005–06 or 2006–07), or to an average of 25 students per classroom, whichever is lower, with no more than 27 students per classroom regardless of the average classroom size. The calculation is done by grade level, as each grade level has a target average class size based on QEIA CSR rules. For small schools with a single classroom at each grade level, some grade level targets may be very low. If, for example, a school had a single grade four classroom of 15 students in 2005–06, the school's target QEIA class size for grade four is 10 students. Absent a waiver, an unusually low grade level target may result in a greater number of combination classes at the school, or very small classes at the grade level, which is prohibitively costly and may result in withdrawal or termination from the program.

QEIA schools are required to not increase any other (non-core) class sizes in the school above the size used during the 2005–06 school year.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC 33051(a)*, available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.**

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the CSR targets based on statute requirements to stay in the program. Any school in the program not meeting those targets will risk the loss of future funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded).

## **ATTACHMENT(S)**

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- Attachment 1: Hilmar Unified School District Request 30-2-2013 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)
- Attachment 2: Hilmar Unified School District General Waiver Request 30-2-2013 (4 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 3: Lynwood Unified School District Request 24-3-2013 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)
- Attachment 4: Lynwood Unified School District General Waiver Request 24-3-2013 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 5: Montebello Unified School District Request 83-1-2013 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)
- Attachment 6: Montebello Unified School District General Waiver Request 83-1-2013 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 7: Montebello Unified School District Request 84-1-2013 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)
- Attachment 8: Montebello Unified School District General Waiver Request 84-1-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 9: Oakland Unified School District Request 39-1-2013 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)
- Attachment 10: Oakland Unified School District General Waiver Request 39-1-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 11: Oakland Unified School District Request 40-1-2013 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)

- Attachment 12: Oakland Unified School District General Waiver Request 40-1-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 13: Oakland Unified School District Request 41-1-2013 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)
- Attachment 14: Oakland Unified School District General Waiver Request 41-1-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 15: Oakland Unified School District Request 43-1-2013 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)
- Attachment 16: Oakland Unified School District General Waiver Request 43-1-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 17: Oakland Unified School District Request 44-1-2013 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)
- Attachment 18: Oakland Unified School District General Waiver Request 44-1-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 19: Oakland Unified School District Request 45-1-2013 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)
- Attachment 20: Oakland Unified School District General Waiver Request 45-1-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 21: Oakland Unified School District Request 46-1-2013 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)
- Attachment 22: Oakland Unified School District General Waiver Request 46-1-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 23: Ontario-Montclair Elementary School District Request 74-1-2013 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)
- Attachment 24: Ontario-Montclair Elementary School District General Waiver Request 74-1-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

- Attachment 25: Ontario-Montclair Elementary School District Request 76-1-2013 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)
- Attachment 26: Ontario-Montclair Elementary School District General Waiver Request 76-1-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 27: Ontario-Montclair Elementary School District Request 77-1-2013 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)
- Attachment 28: Ontario-Montclair Elementary School District General Waiver Request 77-1-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 29: Ontario-Montclair Elementary School District Request 78-1-2013 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)
- Attachment 30: Ontario-Montclair Elementary School District General Waiver Request 78-1-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 31: Orange Unified School District Request 43-2-2013 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)
- Attachment 32: Orange Unified School District General Waiver Request 43-2-2013 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 33: Orange Unified School District Request 44-2-2013 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)
- Attachment 34: Orange Unified School District General Waiver Request 44-2-2013 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 35: Orange Unified School District Request 45-2-2013 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)
- Attachment 36: Orange Unified School District General Waiver Request 45-2-2013 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 37: Paramount Unified School District Request 21-2-2013 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)

- Attachment 38: Paramount Unified School District General Waiver Request 21-2-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 39: Paramount Unified School District Request 22-2-2013 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)
- Attachment 40: Paramount Unified School District General Waiver Request 22-2-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 41: Paramount Unified School District Request 23-2-2013 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)
- Attachment 42: Paramount Unified School District General Waiver Request 23-2-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 43: Perris Elementary School District Request 6-1-2013 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)
- Attachment 44: Perris Elementary School District General Waiver Request 6-1-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 45: Perris Elementary School District Request 51-3-2013 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)
- Attachment 46: Perris Elementary School District General Waiver Request 51-3-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
- Attachment 47: Perris Elementary School District Request 52-3-2013 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)
- Attachment 48: Perris Elementary School District General Waiver Request 52-3-2013 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

**Waiver Number:** 30-2-2013  
2015

**Period of Request:** July 1, 2013, to June 30,

2014

Merquin Elementary School  
6025472  
Hilmar Unified School District

**Period Recommended:** July 1, 2013, to June 30,

**CDS Code:** 24 65698

### **Local Educational Agency Request:**

Hilmar Unified School District (USD) is a rural district located in Merced County with a student population of approximately 2,277 students. Merquin Elementary School (ES) serves 150 students in kindergarten and grades one through five. Monitoring performed by the Merced County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Merquin ES in school year 2011–12, but the district is asking for an alternative QEIA CSR target for school years 2013–14 and 2014–15. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 17.5 and 20.0 in grades four and five, respectively.

Hilmar USD states that due to excessively low CSR targets in grades four and five, unstable enrollment, and budget constraints, maintaining class size requirements has been an ever increasing challenge. The district explains that during 2005–06, when the base class size average was being established, Merquin ES had an atypical “bubble” of grades four and five students that forced the creation of a combination class, thus dropping the student enrollment in each class. The district states that as a result, instead of having what should have been 25.1 targets, the classes had unnatural targets of 20.0 and below. Furthermore, the district states that the school is composed predominantly of English Learners from low income and migrant families, resulting in a high mobility rate. Lastly, the district states that it has reached a point where it can no longer sustain the QEIA general fund encroachment required to fund the necessary teachers to meet such low CSR targets.

Hilmar USD requests a waiver of the QEIA CSR targets for kindergarten and grades one through five at Merquin ES for school years 2013–14 and 2014–15, and the establishment of alternative CSR targets of 24.0 students per class in core classes in kindergarten and grades one through three, and 25.0 students on average in core classes in grades four and five.

### **California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Hilmar USD's request to increase its CSR targets for kindergarten and grades one through five at Merquin ES for school year 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to kindergarten and grades one through five at Merquin ES for school year 2013–14; (2) Merquin ES increases enrollment to 24.0 per class in core classes in kindergarten and grades one through three, and 25.0 students per class on average in core classes in grades four and five; and (3) Within 30 days of approval of this waiver, Hilmar USD must provide to



the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Merquin ES Schoolsite Council on February 12, 2013.

Neutral position by Hilmar Unified Teachers Association, February 12, 2013.

**Local Board Approval:** February 12, 2013.

**California Department of Education  
WAIVER SUBMISSION - General**

CD Code: 2465698      Waiver Number: 30-2-2013      Active Year: 2013

Date In: 2/19/2013 11:05:31 AM

Local Education Agency: Hilmar Unified School District  
Address: 7807 North Lander Ave.  
Hilmar, CA 95324

Start: 7/1/2013      End: 6/30/2015

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740.(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

[(1) Meet all of the following class size requirements:

(A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

(B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006-07.

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.]

Outcome Rationale: See Attachment A

Student Population: 150

City Type: Rural

Public Hearing Date: 2/12/2013  
Public Hearing Advertised: Posting at schools and in the community (more than 3 postings)

Local Board Approval Date: 2/12/2013

Committee/Council Reviewed By: Merquin Elementary School Site Council  
Committee/Council Reviewed Date: 2/12/2013  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Cecilia Areias  
Position: Categorical Program Coordinator  
E-mail: careias@hilmar.k12.ca.us  
Telephone: 209-669-5463  
Fax: 209-667-1721

Bargaining Unit: Date: 02/12/2013  
Name: Hilmar Unified Teachers Association (HUTA)  
Representative: Dick Piersma  
Title: HUTA president  
Position: Neutral  
Comments:

## **Attachment A**

Merquin Elementary School is a small rural school in the Hilmar Unified School District. The K-5 school is approximately 10 miles away from the rest of the district's 4 campuses. Merquin has seen many positive changes over the years due to the involvement of the QEIA Program. As a result, the school has seen steady increases in the academic growth rate of the Academic Performance Index (API). However, due to budget constraints, unstable enrollment, and the excessively low CSR targets in 4<sup>th</sup> and 5<sup>th</sup> grade (15.5:1 in 4<sup>th</sup> grade and 20:1 in 5<sup>th</sup> grade), maintaining class size requirements has been an ever increasing challenge.

### Very Low CSR Target in 4<sup>th</sup> and 5<sup>th</sup> Grade:

During the 2005-2006 school year, in which the Base Class Size Average was established, Merquin Elementary School had an atypical "bubble" of 4<sup>th</sup> and 5<sup>th</sup> graders which forced the creation of a 4<sup>th</sup>/5<sup>th</sup> combination which had not existed the prior year. If the district had not created that combination class, the 4<sup>th</sup> grade class would have had 39 students in it, and the 5<sup>th</sup> grade class would have had 31 students (creating QEIA class size targets of 25 for 4<sup>th</sup> and 5<sup>th</sup> grade, respectively). But, since the district added a teacher and created a combination 4<sup>th</sup>/5<sup>th</sup> class, dropping the student enrollment in each class to: 25 in 4<sup>th</sup>, 25 in 5<sup>th</sup>, and 20 in the 4<sup>th</sup>/5<sup>th</sup> combination (enrollment numbers well below the 28.5 average at the district's other elementary school). These low student counts resulted in the following CSR targets for Merquin: 17.5 in 4<sup>th</sup> grade and 20 in 5<sup>th</sup> grades.

### Unstable Enrollment:

Merquin Elementary School is a small, rural school with unstable student enrollment that can fluctuate anywhere between 19 and 39 students in a given grade level. The school is composed predominantly of English Learners from low income and migrant families, resulting in a high mobility rates. On average, only 50% of students who start kindergarten at Merquin stay there through 5<sup>th</sup> grade. The constant coming and going of students throughout the school year makes it difficult to meet class size targets in all grade levels without creating combination classes (in some cases, after the school year has started).

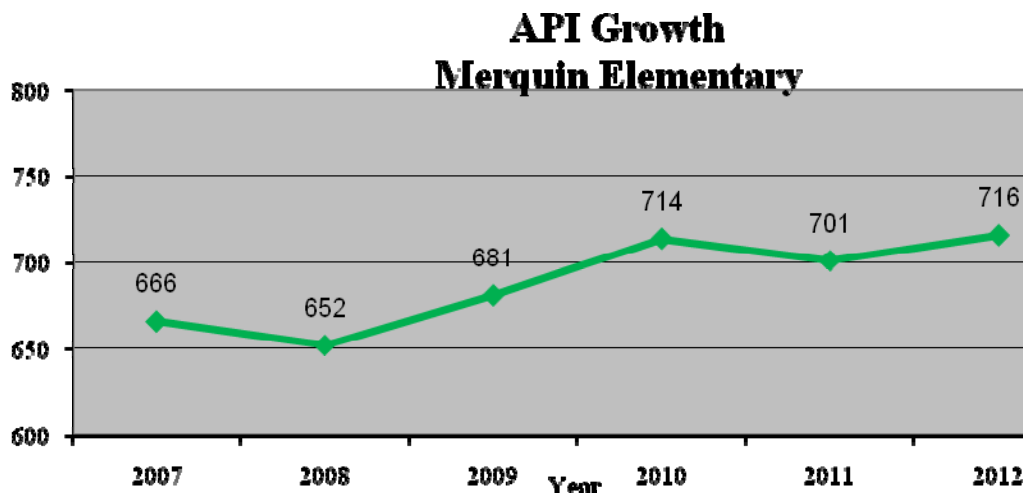
### Budget Constraints:

Due to the ongoing financial crisis facing California public schools, the Hilmar Unified School District has reached a point where it can no longer sustain the QEIA general fund encroachment required to fund the necessary teachers to meet such low CSR targets. The years of cuts and deferrals have led to deficit spending, which has been exacerbated further by the onset of declining enrollment.

Hilmar Unified School District and Merquin Elementary School are requesting to establish an average of 25 students for all 4<sup>th</sup> and 5<sup>th</sup> grade classes combined and that no class in 4<sup>th</sup> to 5<sup>th</sup> grade exceed 27 students in any classroom for the 2013-2014 and future QEIA school years.

Hilmar Unified School District is also requesting that if the current K-3 CSR Program targets of 20:1 are increased to 24:1 (as stated in the Governor's budget proposal), that Merquin Elementary's QEIA K-3 targets also be increased accordingly (from 20:1 to 24:1) for 2013-2014 and future QEIA school years.

Through internal and external controls, Merquin Elementary School has been fully compliant with all QEIA program requirements for the past five years of implementation (07–08, 08–09, 09–10, 10–11, 11–12). In addition, Merquin has made progress in narrowing the achievement gap of its significant subgroups and has made positive API school-wide growth. The chart below shows such growth from 2007 through 2012.



Merquin Elementary School is committed to continued implementation of the QEIA program, in which significant gains in the API have already been realized. The school is requesting that the State Board of Education support the school's efforts and allow for an adjusted 4<sup>th</sup> and 5<sup>th</sup> grade QEIA class size reduction (average/target) of 25:1, and an adjusted QEIA class size target of 24:1 in K-3 (if the proposed K-3 CSR Program targets in the Governor's budget proposal go into effect).

**Waiver Number:** 24-3-2013  
2012

**Period of Request:** July 1, 2011, to June 30,

Wilson Elementary School  
6020317  
Lynwood Unified School District

**Period Recommended:** July 1, 2011, to June 30, 2012

**CDS Code:** 19 64774

**Local Educational Agency Request:**

Lynwood Unified School District (USD) is an urban district located in Los Angeles County with a student population of approximately 15,500 students. Wilson Elementary School (ES) serves 710 students in kindergarten and grades one through six. Monitoring performed by the Los Angeles County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were not fully met by Wilson ES for two grade four classes, three grade five classes, and three grade six classes that exceeded the QEIA 27-student cap per classroom requirement in school year 2011–12. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 19.8, 17.7, and 24.1 in grades four through six, respectively.

Lynwood USD states that it has been in ongoing financial crisis that resulted in county office of education intervention and fiscal monitoring, with district fiscal solvency as the main priority for the 2011–12 school year. Further, the district states that it was not fiscally possible to staff QEIA schools at the set targets, which are as low as 17.0 at full implementation, and comply with the rule of 27. In addition, the district states that the low CSR target was based on the previous year's baseline, which was already low since the district was making an effort to keep elementary school class sizes at 20.0 prior to QEIA funding. The district states that continuing to staff QEIA schools at the set targets and complying with the rule of 27 would result in a \$1.5 million encroachment on the general fund, and the district cannot sustain the QEIA general fund encroachment and maintain fiscal solvency. As a result, the district states that six sections at Wilson ES violated the rule of 27 to help the district achieve fiscal solvency, which has now been accomplished.

Lynwood USD requests a waiver of the QEIA 27-student cap per core classroom requirement for two grade four classes, three grade five classes, and three grade six classes at Wilson ES for school year 2011–12.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Lynwood USD's request to waive the QEIA 27-student cap per core classroom CSR requirement for grades four through six at Wilson ES for school year 2011–12.

The CDE recommends approval with the following conditions: (1) Applies only to grades four through six at Wilson ES for school year 2011–12; and (2) Within 30 days of approval of this waiver, Lynwood USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Wilson ES Schoolsite Council on December 19, 2012.

Supported by Lynwood Teachers Association, August 13, 2012.

**Local Board Approval:** January 22, 2013.

**California Department of Education  
WAIVER SUBMISSION - General**

CD Code: 1964774      Waiver Number: 24-3-2013      Active Year: 2013

Date In: 3/8/2013 1:01:43 PM

Local Education Agency: Lynwood Unified School District  
Address: 11321 Bullis Rd.  
Lynwood, CA 90262

Start: 7/1/2011      End: 6/30/2012

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Rule of 27  
Ed Code Section: 52055.74.(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

- (1) Meet all of the following class size requirements:
  - (A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).
  - (B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
    - (i) At least five pupils fewer per classroom than was the average in 2006-07.
    - (ii) An average of 25 pupils per classroom.
    - (iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. [A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.]

Outcome Rationale: Lynwood Unified School District (LUSD) has a student population of approximately 15,500 students and is located in an urban area in Los Angeles County. During the 2011-2012 school year, LUSD made substantial progress having a 22 point overall API growth, as well as a 19 point API growth for the English Learner subgroup. In addition, the currently embargoed 2011-2012 cohort graduation rate reflects an 11% growth for LUSD and a rate which exceeds that of the State average.



The Lynwood Unified School District (LUSD), on behalf of Wilson Elementary, is requesting to waive the established rule of 27 for the 2011-2012 school year, in regards to *Education Code 52055.740 (a): QEIA Class Size Reduction*.

Wilson Elementary School has a student population of 709 students including students with disabilities. The student population at Wilson Elementary is predominantly Hispanic or Latino (95%), 44 percent are English learners. The majority of the student population is socioeconomically disadvantaged, with 94 percent of students receiving free/reduced lunch.

Wilson was fully compliant with QEIA program requirements prior to school years for which the waiver is being requested. For class size reduction related to QEIA, LUSD was asked to staff Wilson Elementary as low as 17/1 at full implementation as well as comply with the rule of 27. This low CSR target was based on the previous years' baseline being low since LUSD was making an effort to keep elementary school class sizes at 20 prior to QEIA funding. Continuing to staff at QEIA schools at the set targets and comply with the rule of 27 would result in a \$1.5 million encroachment on the general fund and LUSD cannot sustain the QEIA general fund encroachment and maintain fiscal solvency.

LUSD had been in ongoing financial crisis that resulted in County office intervention and fiscal monitoring. The main priority for the 2011-2012 school year was to have LUSD achieve fiscal solvency. It was not fiscally possible to staff QEIA schools at the set targets and comply with the rule of 27; as a result 6 sections at Wilson Elementary violated the rule of 27 to help LUSD achieve fiscal solvency, which it has now accomplished. Consequently, LUSD is no longer under County office fiscal oversight.

Wilson Elementary had complied with CSR targets and had averages below the targets in previous years. In addition, Wilson had previously been in compliance with the rule of 27.

LUSD has made substantial progress having aside from having 22 point overall API growth, it is no longer under fiscal oversight by the County. Moreover, Wilson Elementary, during the 2012-2013 school year has been successfully complied with the rule of 27 with averages lower than 25, while current non-QEIA school class sizes are an average of 30.

Student Population: 710

City Type: Urban

Public Hearing Date: 1/22/2013

Public Hearing Advertised: District and School Postings

Local Board Approval Date: 1/22/2013

Committee/Council Reviewed By: Wilson Elementary School Site Council

Committee/Council Reviewed Date: 12/19/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Yesenia Fernandez  
Position: Acting Director Instructional Services  
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Bargaining Unit: Date: 08/13/2012  
Name: Lynwood Teachers Association  
Representative: Ida Carbajal  
Title: President  
Position: Support  
Comments:

**Waiver Number:** 83-1-2013  
2015

**Period of Request:** July 1, 2013, to June 30,

Bell Gardens Intermediate School  
Montebello Unified School District

**Period Recommended:** July 1, 2013, to June 30, 2014

**CDS Code:** 19 64808 6058408

**Local Educational Agency Request:**

Montebello Unified School District (USD) is an urban district located in Los Angeles County with a student population of approximately 31,316 students. Bell Gardens Intermediate School (IS) serves 1,250 students in grades six through eight. Monitoring performed by the Los Angeles County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Bell Gardens IS in school year 2011–12, but the district is asking for an alternative QEIA CSR target for school years 2013–14 and 2014–15. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 23.7, 24.6, and 22.2 in grades six through eight, respectively.

Montebello USD states that since the implementation of the QEIA program, the district has lost approximately 11% of \$19 million in annual revenue limit funding. The district further states that due to the ongoing and severe fiscal crisis in California, cuts to revenue limit funding have resulted in an increase of the student-to-teacher ratio in all schools in the district. The district added that in order to stabilize its budget for 2012–15, it will be necessary to reduce spending.

Montebello USD requests a waiver of the QEIA CSR targets for grades six through eight at Bell Gardens IS for school years 2013–14 and 2014–15, and the establishment of alternate CSR targets of 25.0 students on average in core classes in grades six through eight.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Montebello USD's request to increase its CSR targets for grades six through eight at Bell Gardens IS for school year 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to grades six through eight at Bell Gardens IS for school year 2013–14; (2) Bell Gardens IS increases enrollment to 25.0 students per class on average in core classes in grades six through eight; (3) No core class in grades six through eight may exceed 27 students per classroom regardless of the average classroom size; and (4) Within 30 days of approval of this waiver, Montebello USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Bell Gardens IS Schoolsite Council on October 4, 2012.

Supported by Montebello Teachers Association, December 4, 2012.

**Local Board Approval:** December 20, 2012.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 1964808      Waiver Number: 83-1-2013      Active Year: 2013

Date In: 1/25/2013 3:28:24 PM

Local Education Agency: Montebello Unified School District  
Address: 123 South Montebello Blvd.  
Montebello, CA 90640

Start: 7/1/2013      End: 6/30/2015

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740 (a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements:

(B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

[(i) At least five pupils fewer per classroom than was the average in 2006-07.]

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

(C) For classes in English language arts, reading, mathematics, science, or history and social science courses in grades 4 to 12, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

[(i) At least five pupils fewer per classroom than was the average in 2006-07.]

(ii) An average of 25 pupils per classroom

Outcome Rationale: The Montebello Unified School District (MUSD) on behalf of Bell Gardens Intermediate School requests the establishment of an alternative permanent CSR target of 25.0 on average in core classes in grades six through eight to fiscally support and meet all the QEIA required mandates for the time period of July 1, 2013, to June 30, 2015.

Since the implementation of the QEIA Program, MUSD has lost approximately 11%, or \$ 19 million in annual Revenue Limit funding. Due to the ongoing and severe fiscal crisis in the State of California, cuts to revenue limit funding have resulted in an increase of the student to teacher ratio in all schools in the district. In order to stabilize the district's budget for 2012-2015, it will be necessary to reduce spending.

All Montebello Unified School District QEIA classes grades four through twelve have a CSR target in student to teacher ratio of 25. Bell Gardens Intermediate School's current QEIA CSR targets for the average size of core classes of English, mathematics, history-social science, and science are 23.7 in grade six, 24.6 in grade seven, and 22.2 in grade eight. The average teacher to student ratio for all other non-QEIA intermediate school core classes, grades six through eight in MUSD, is 34.0.

This waiver would allow the district to have class sizes at QEIA schools remain substantially lower than the non-QEIA intermediate schools. With the new proposed class size in sixth through eighth grade, Bell Gardens Intermediate will be better able to continue to provide a high quality education with continuous support for their families.

Bell Gardens Intermediate has met all funding requirements during the first four years, including teacher qualifications, class size, and API growth. Student achievement on the CST has improved at this school. In fact, Bell Gardens Intermediate has far exceeded the API Growth targets. See the table below:

2008-2009	2009-2010	2010-2011	2011-2012	Average
Growth8	7	5	5	6.25
Target	18	34	8	7
				16.75

Student Population: 1250

City Type: Urban

Public Hearing Date: 12/20/2012

Public Hearing Advertised: Notice was publicly posted at school and publicly posted district-wide in the Board of Education Meeting Agenda

Local Board Approval Date: 12/20/2012

Committee/Council Reviewed By: School Site Council Meeting

Committee/Council Reviewed Date: 10/4/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Arthur Revueltas  
Position: Deputy Superintendent  
E-mail: revueltas\_art@montebello.k12.ca.us  
Telephone: 323-887-7900 x7922  
Fax: 323-887-5896

Bargaining Unit: Date: 12/04/2012  
Name: Montebello Teachers Association  
Representative: Julian De La Torre  
Title: MTA President  
Position: Support  
Comments:

**Waiver Number:** 84-1-2013  
2015

**Period of Request:** July 1, 2013, to June 30,

Winter Gardens Elementary School  
6020689  
Montebello Unified School District

**Period Recommended:** July 1, 2013, to June 30, 2014  
**CDS Code:** 19 64808

### **Local Educational Agency Request:**

Montebello Unified School District (USD) is an urban district located in Los Angeles County with a student population of approximately 31,316 students. Winter Gardens Elementary School (ES) serves 679 students in kindergarten and grades one through five. Monitoring performed by the Los Angeles County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Winter Gardens ES in school year 2011–12, but the district is asking for an alternative QEIA CSR target for school years 2013–14 and 2014–15. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 25.0 in grades four and five, respectively.

Montebello USD states that since the implementation of the QEIA program, the district has lost approximately 11% of \$19 million in annual revenue limit funding. The district further states that due to the ongoing and severe fiscal crisis in California, cuts to revenue limit funding have resulted in an increase of the student to teacher ratio in all schools in the district. The district added that in order to stabilize its budget for 2012–15, it will be necessary to reduce spending.

Montebello USD requests a waiver of the QEIA CSR targets for kindergarten and grades one through three at Winter Gardens ES for school years 2013–14 and 2014–15, and the establishment of alternative CSR targets of 25.0 students per class in core classes in kindergarten and grades one through three.

### **California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Montebello USD's request to increase its CSR targets for kindergarten and grades one through three at Winter Gardens ES for school year 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to kindergarten and grades one through three at Winter Gardens ES for school year 2013–14; (2) Winter Gardens ES increases enrollment to 25.0 per class in core classes in kindergarten and grades one through three; and (3) Within 30 days of approval of this waiver, Montebello USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Winter Gardens ES Schoolsite Council on October 15, 2012.

Supported by Montebello Teachers Association, December 4, 2012.

**Local Board Approval:** December 20, 2012.



**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 1964808      Waiver Number: 84-1-2013      Active Year: 2013

Date In: 1/25/2013 3:47:44 PM

Local Education Agency: Montebello Unified School District  
Address: 123 South Montebello Blvd.  
Montebello, CA 90640

Start: 7/1/2013      End: 6/30/2015

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements:

(A) For kindergarten and grades 1 to 3, inclusive, no more than [20] 25 pupils per class. [as set forth in the Class Size Reduction Program] (Chapter 6.10 (commencing with Section 52120)).

(B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006-07.

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

Outcome Rationale: The Montebello Unified School District (MUSD) on behalf of Winter Gardens Elementary School requests a permanent single QEIA baseline target of 25:1 for grades Kindergarten to third to fiscally support and meet all the QEIA required mandates for the time period of July 1, 2013 to June 30, 2015.

Since the implementation of the QEIA Program, MUSD has lost approximately 11%, or \$ 19 million in annual Revenue Limit funding. Due to the ongoing and severe fiscal crisis in the State of California, cuts to revenue limit funding have resulted in an increase of the student to teacher

ratio in all schools in the district. In order to stabilize the district's budget for 2012-2015, it will be necessary to reduce spending.

All Montebello Unified School District QEIA classes grades four through twelve have a CSR target in student to teacher ratio of 25. Currently, Winter Gardens Elementary School has a required class size ratio of 20.0 for grades Kindergarten to three. The average teacher to student ratio for all other non-QEIA elementary school classes, grades Kindergarten to three in MUSD, is 33.0.

This waiver would allow the district to have class sizes at QEIA schools remain substantially lower than the non-QEIA schools. Each year, Winter Gardens have a small number of students per grade level that are turned away. With the new proposed class size in Kindergarten through third grade, Winter Gardens will have fewer students if any, excluded from their program. They will be better able to continue providing a high quality education with continuous support for the families. There will also be a reduced need for multiple combination grade settings. (i.e.: K-1, 1-2, 2-3 etc.) Students would remain in their home school, and in a class with their grade level peers. Student achievement on the CST has improved at this school.

Student Population: 679

City Type: Urban

Public Hearing Date: 12/20/2012

Public Hearing Advertised: Notice was publicly posted at school and publicly posted district-wide in the Board of Education Meeting Agenda

Local Board Approval Date: 12/20/2012

Committee/Council Reviewed By: Winter Gardens Elementary School Site Council

Committee/Council Reviewed Date: 10/15/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Arthur Revueltas

Position: Deputy Superintendent

E-mail: revueltas\_art@montebello.k12.ca.us

Telephone: 323-887-7900 x7922

Fax: 323-887-5896

Bargaining Unit: Date: 12/04/2012

Name: Montebello Teacher's Association

Representative: Julian De La Torre

Title: MTA President

Position: Support

Comments:

**Waiver Number:** 39-1-2013  
2012

**Period of Request:** July 1, 2011, to June 30,

**Period Recommended:** July 1, 2011, to June 30, 2012

ACORN Woodland Elementary School  
6002273  
Oakland Unified School District

**CDS Code:** 01 61259

**Local Educational Agency Request:**

Oakland Unified School District (USD) is an urban district located in Alameda County with a student population of approximately 46,472 students. ACORN Woodland Elementary School (ES) serves 237 students in kindergarten and grades one through five. Monitoring performed by the Alameda County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were not fully met by ACORN Woodland ES in school year 2011–12. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science and science are 20.44 in kindergarten and grades one through three, and an average of 18.0 and 21.0 in grades four and five, respectively.

Oakland USD states that ACORN Woodland ES made a good-faith effort to stay within QEIA CSR targets in 2011–12, but it experienced an unanticipated increase in enrollment in grade four. With 37 students and two grade four classes, the district states that one class had 19 students and the other 18, making ACORN Woodland ES's grade four class average enrollment 18.5 students.

Oakland USD requests a waiver of the QEIA CSR target for grade four at ACORN Woodland ES for school year 2011–12, and the establishment of an alternative CSR target of 18.5 students on average in core classes in grade four.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Oakland USD's request to increase its CSR target for grade four at ACORN Woodland ES for school year 2011–12.

The CDE recommends approval with the following conditions: (1) Applies only to grade four at ACORN Woodland ES for school year 2011–12; and (2) Within 30 days of approval of this waiver, Oakland USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by QEIA Leadership Advisory Committee on January 8, 2013.

Supported by Oakland Education Association, December 21, 2012.

**Local Board Approval:** January 9, 2013.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0161259      Waiver Number: 39-1-2013      Active Year: 2013

Date In: 1/10/2013 1:16:54 PM

Local Education Agency: Oakland Unified School District  
Address: 1025 Second Ave.  
Oakland, CA 94606

Start: 7/1/2011      End: 6/30/2012

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements:

(A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program Chapter 6.10 (commencing with Section 52120)).

(B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006-07.

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the school site. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

Outcome Rationale: This Waiver is requesting that the Class Size Reduction Targets established for Acorn Woodland Elementary School of 18.0 for 4th grade be increased to 18.5 students in these grade levels for the 2011-2012 in light of the following circumstances:

The school made a good-faith effort to stay within QEIA class size targets for grade four. In grade four, the average number of students enrolled in 4th grade for 2011-12 was 37 students. The school has two fourth grade classes, so one class had 19 students, the other 18 students, for a grade level average of 18.5. The school kept within close range of the targets, and therefore we request a temporary waiver of the requirement to load classes to 18.0 students.

Student Population: 237

City Type: Urban

Public Hearing Date: 1/9/2013

Public Hearing Advertised: The public hearing was advertised via the District Board of Education online system.

Local Board Approval Date: 1/9/2013

Committee/Council Reviewed By: QEIA Leadership Advisory Committee

Committee/Council Reviewed Date: 1/8/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. David Montes de Oca

Position: Executive Director

E-mail: david.montes@ousd.k12.ca.us

Telephone: 510-336-7500

Fax:

Bargaining Unit: Date: 12/21/2012

Name: Oakland Education Association

Representative: Trish Gorham

Title: President

Position: Support

Comments:

**Waiver Number:** 40-1-2013  
2012

**Period of Request:** July 1, 2011, to June 30,

**Period Recommended:** July 1, 2011, to June 30, 2012

Bridges Academy at Melrose Elementary School  
Oakland Unified School District

**CDS Code:** 01 61259 6002075

**Local Educational Agency Request:**

Oakland Unified School District (USD) is an urban district located in Alameda County with a student population of approximately 46,472 students. Bridges Academy at Melrose Elementary School (ES) serves 398 students in kindergarten and grades one through five. Monitoring performed by the Alameda County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were not fully met by Bridges Academy at Melrose ES in school year 2011–12. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 14.33 and 22.5 in grades four and five, respectively.

Oakland USD states that Bridges Academy at Melrose ES made a good-faith effort to stay within QEIA CSR targets in 2011–12, but it proved difficult to maintain class sizes within the QEIA targets throughout the school year. The district also states that exceeding the CSR targets by only 0.2 students demonstrated the school's effort to remain compliant with all targets.

Oakland USD requests a waiver of the QEIA CSR target for grade five at Bridges Academy at Melrose ES for school year 2011–12, and the establishment of an alternative CSR target of 22.7 students on average in core classes in grade five.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Oakland USD's request to increase its CSR target for grade five at Bridges Academy at Melrose ES for school year 2011–12.

The CDE recommends approval with the following conditions: (1) Applies only to grade five at Bridges Academy at Melrose ES for school year 2011–12; and (2) Within 30 days of approval of this waiver, Oakland USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by QEIA Leadership Advisory Council on January 8, 2013.

Supported by Oakland Education Association, December 21, 2012.

**Local Board Approval:** January 9, 2013.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0161259      Waiver Number: 40-1-2013      Active Year: 2013

Date In: 1/10/2013 1:20:44 PM

Local Education Agency: Oakland Unified School District  
Address: 1025 Second Ave.  
Oakland, CA 94606

Start: 7/1/2011      End: 6/30/2012

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

- (1) Meet all of the following class size requirements:
  - (A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program Chapter 6.10 (commencing with Section 52120)).
  - (B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
    - (i) At least five pupils fewer per classroom than was the average in 2006-07.
    - (ii) An average of 25 pupils per classroom.
    - (iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the school site. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

Outcome Rationale: This Waiver is requesting that the Class Size Reduction targets established for Bridges at Melrose Elementary School of 22.5 students in 5th grade be increased to 22.7 students for the 2011-2012 school year in light of the following circumstances:

The school made a good-faith effort to stay within QEIA class size targets in 5th grade in 2011-12. Due to the number of students in those grades, however, it proved difficult to maintain class sizes within the QEIA targets throughout the school year. As evidenced by the data above, the school exceeded class size reduction targets by only 0.2 students in 2011-12, demonstrating the site's effort to remain compliant with all targets.

Student Population: 398

City Type: Urban

Public Hearing Date: 1/9/2013

Public Hearing Advertised: The public hearing was advertised via the District Board of Education online system.

Local Board Approval Date: 1/9/2013

Committee/Council Reviewed By: QEIA Leadership Advisory Council

Committee/Council Reviewed Date: 1/8/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. David Montes de Oca

Position: Executive Director

E-mail: david.montes@ousd.k12.ca.us

Telephone: 510-336-7500

Fax:

Bargaining Unit: Date: 12/21/2012

Name: Oakland Education Association

Representative: Trish Gorham

Title: President

Position: Support

Comments:



**Waiver Number:** 41-1-2013  
2012

**Period of Request:** July 1, 2011, to June 30,

2012

**Period Recommended:** July 1, 2011, to June 30,

Brookfield Elementary School  
6001663  
Oakland Unified School District

**CDS Code:** 01 61259

**Local Educational Agency Request:**

Oakland Unified School District (USD) is an urban district located in Alameda County with a student population of approximately 46,472 students. Brookfield Elementary School (ES) serves 385 students in kindergarten and grades one through five. Monitoring performed by the Alameda County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were not fully met by Brookfield ES in school year 2011–12. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 19.33 and 23.93 in grades four and five, respectively.

Oakland USD states that Brookfield ES made a good-faith effort to stay within QEIA CSR targets in 2011–12, but due to the number of students in grade one, it proved difficult to maintain class sizes within the QEIA targets throughout the school year. The district also states that exceeding the CSR targets by only 0.56 students demonstrated the school's effort to remain compliant with all targets.

Oakland USD requests a waiver of the QEIA CSR target for grade one at Brookfield ES for school year 2011–12, and the establishment of an alternative CSR target of 21.0 students per class in core classes in grade one.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Oakland USD's request to increase its CSR target for grade one at Brookfield ES for school year 2011–12.

The CDE recommends approval with the following conditions: (1) Applies only to grade one at Brookfield ES for school year 2011–12; and (2) Within 30 days of approval of this waiver, Oakland USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by QEIA Leadership Advisory Council on January 8, 2013.

Supported by Oakland Education Association, December 21, 2012.

**Local Board Approval:** January 9, 2013.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0161259      Waiver Number: 41-1-2013      Active Year: 2013

Date In: 1/10/2013 1:24:23 PM

Local Education Agency: Oakland Unified School District  
Address: 1025 Second Ave.  
Oakland, CA 94606

Start: 7/1/2011      End: 6/30/2012

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

- (1) Meet all of the following class size requirements:
  - (A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program Chapter 6.10 (commencing with Section 52120)).
  - (B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
    - (i) At least five pupils fewer per classroom than was the average in 2006-07.
    - (ii) An average of 25 pupils per classroom.
    - (iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the school site. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

Outcome Rationale: This Waiver is requesting that the Class Size Reduction Targets established for Brookfield Elementary School of 20.44 students in 1st grade be increased to 21.0 students for the 2011-2012 school year in light of the following circumstances:

The school made a good-faith effort to stay within QEIA class size targets in 1st grade in 2011-12. Due to the number of students in those grades, however, it proved difficult to maintain class sizes within the QEIA targets throughout the school year. As evidenced by the data above, the school exceeded class size reduction targets by only 0.56 students in 2011-12, demonstrating the site's effort to remain compliant with all targets.

Student Population: 385

City Type: Urban

Public Hearing Date: 1/9/2013

Public Hearing Advertised: The public hearing was advertised via the District Board of Education online system.

Local Board Approval Date: 1/9/2013

Committee/Council Reviewed By: QEIA Leadership Advisory Council

Committee/Council Reviewed Date: 1/8/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. David Montes de Oca

Position: Executive Director

E-mail: david.montes@ousd.k12.ca.us

Telephone: 510-336-7500

Fax:

Bargaining Unit: Date: 12/21/2012

Name: Oakland Education Association

Representative: Trish Gorham

Title: President

Position: Support

Comments:

**Waiver Number:** 43-1-2013  
2012

**Period of Request:** July 1, 2011, to June 30,

Horace Mann Elementary School  
Oakland Unified School District

**Period Recommended:** July 1, 2011, to June 30, 2012

**CDS Code:** 01 61259 6001929

**Local Educational Agency Request:**

Oakland Unified School District (USD) is an urban district located in Alameda County with a student population of approximately 46,472 students. Horace Mann Elementary School (ES) serves 332 students in kindergarten and grades one through five. Monitoring performed by the Alameda County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were not fully met by Horace Mann ES in school year 2011–12. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 19.0 and 16.0 in grades four and five, respectively.

Oakland USD states that Horace Mann ES made a good-faith effort to stay within QEIA CSR targets in 2011–12, but due to the number of students in those grades, it proved difficult to maintain class sizes within the QEIA targets throughout the school year. The district further states that the school exceeded CSR targets by no more than an average of 1.4 students in grades three and five and managed to keep the classes to 21 students or fewer.

Oakland USD requests a waiver of the QEIA CSR targets for grades three and five at Horace Mann ES for school year 2011–12, and the establishment of alternative CSR targets of 21.0 students per class in core classes in grade three, and 17.4 students on average in core classes in grade five.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Oakland USD's request to increase its CSR targets for grades three and five at Horace Mann ES for school year 2011–12.

The CDE recommends approval with the following conditions: (1) Applies only to grades three and five at Horace Mann ES for school year 2011–12; and (2) Within 30 days of approval of this waiver, Oakland USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by QEIA Leadership Advisory Committee on January 8, 2013.

Supported by Oakland Education Association, December 21, 2012.

**Local Board Approval:** January 9, 2013.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0161259      Waiver Number: 43-1-2013      Active Year: 2013

Date In: 1/10/2013 1:31:33 PM

Local Education Agency: Oakland Unified School District  
Address: 1025 Second Ave.  
Oakland, CA 94606

Start: 7/1/2011      End: 6/30/2012

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

- (1) Meet all of the following class size requirements:
  - (A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program Chapter 6.10 (commencing with Section 52120)).
  - (B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
    - (i) At least five pupils fewer per classroom than was the average in 2006-07.
    - (ii) An average of 25 pupils per classroom.
    - (iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the school site. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

Outcome Rationale: This Waiver is requesting that the Class Size Reduction Targets established for Horace Mann Elementary School of 20.44 in 3rd grade and 16.0 in 5th grade be increased to 21 students and 17.4 students respectively for these grade levels for the 2011-2012 school year in light of the following circumstances:

The school made a good-faith effort to stay within QEIA class size targets for both 3rd and 5th grade in 2011-12. Due to the number of students in those grades, however, it proved difficult to maintain class sizes within the QEIA targets throughout the school year. As evidenced by the data above, the school exceeded class size reduction targets by no more than an average of 1.4 students in either grade level, and managed to keep those classes to 21 students or lower.

Student Population: 332

City Type: Urban

Public Hearing Date: 1/9/2013

Public Hearing Advertised: The public hearing was advertised via the District Board of Education online system.

Local Board Approval Date: 1/9/2013

Committee/Council Reviewed By: QEIA Leadership Advisory Committee

Committee/Council Reviewed Date: 1/8/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. David Montes de Oca

Position: Executive Director

E-mail: david.montes@ousd.k12.ca.us

Telephone: 510-336-7500

Fax:

Bargaining Unit: Date: 12/21/2012

Name: Oakland Education Association

Representative: Trish Gorham

Title: President

Position: Support

Comments:

**Waiver Number:** 44-1-2013  
2012

**Period of Request:** July 1, 2011, to June 30,

Manzanita Community School  
6002042  
Oakland Unified School District

**Period Recommended:** July 1, 2011, to June 30, 2012

**CDS Code:** 01 61259

### **Local Educational Agency Request:**

Oakland Unified School District (USD) is an urban district located in Alameda County with a student population of approximately 46,472 students. Manzanita Community School (CS) serves 336 students in kindergarten and grades one through five. Monitoring performed by the Alameda County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were not fully met by Manzanita CS in school year 2011–12. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 18.3 and 16.3 in grades four and five, respectively.

Oakland USD states that Manzanita CS made a good-faith effort to stay within QEIA CSR targets in 2011–12, but more students enrolled in the site than expected for different reasons. For kindergarten classes, the district states that the school made an effort to accommodate kindergarten students from a neighborhood homeless shelter that enrolled during the course of the year, increasing the grade level average slightly. For grades three and four, the district further states that the percentage of students estimated to attend the school was higher than expected.

Oakland USD requests a waiver of the QEIA CSR targets for kindergarten and grades three and four at Manzanita CS for school year 2011–12, and the establishment of alternative CSR targets of 22.7 and 22.8 students per class in core classes in kindergarten and grade three, respectively, and 22.4 students on average in core classes in grade four.

### **California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Oakland USD's request to increase its CSR targets for kindergarten and grades three and four at Manzanita CS for school year 2011–12.

The CDE recommends approval with the following conditions: (1) Applies only to kindergarten and grades three and four at Manzanita CS for school year 2011–12; and (2) Within 30 days of approval of this waiver, Oakland USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by QEIA Leadership Advisory Committee on January 8, 2013.

Supported by Oakland Education Association, December 21, 2012.

**Local Board Approval:** January 9, 2013.



**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0161259      Waiver Number: 44-1-2013      Active Year: 2013

Date In: 1/10/2013 1:34:52 PM

Local Education Agency: Oakland Unified School District  
Address: 1025 Second Ave.  
Oakland, CA 94606

Start: 7/1/2011      End: 6/30/2012

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

- (1) Meet all of the following class size requirements:
  - (A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program Chapter 6.10 (commencing with Section 52120)).
  - (B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
    - (i) At least five pupils fewer per classroom than was the average in 2006-07.
    - (ii) An average of 25 pupils per classroom.
    - (iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the school site. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

Outcome Rationale: This Waiver is requesting that the Class Size Reduction Targets established for Manzanita Community School of 20.44 students in Kindergarten be increased to 22.7, 20.44 students in 3rd grade be increased to 22.8, and 18.33 students in 4th grade be increased to 22.4 for the 2011-12 school year in light of the following circumstances:

The school made a good-faith effort to stay within QEIA class size targets in 2011-12. In Kindergarten, more students enrolled in the site than expected. As a neighborhood school, Manzanita Community made an effort to accommodate Kindergarten students from a neighborhood homeless shelter that enrolled during the course of the year, which increased the grade level average slightly. In grades three and four, the percentage of students that it was

estimated would attend the school was higher than expected. The site made the decision to slightly increase class size in order to remain financially viable, rather than seek District funds to hire an additional teacher to balance class sizes for QEIA. Since the increase in class size was within a reasonable range of QEIA targets and below 25 students per class, the site determined this was the appropriate decision.

Student Population: 336

City Type: Urban

Public Hearing Date: 1/9/2013

Public Hearing Advertised: The public hearing was advertised via the District Board of Education online system.

Local Board Approval Date: 1/9/2013

Committee/Council Reviewed By: QEIA Leadership Advisory Committee

Committee/Council Reviewed Date: 1/8/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. David Montes de Oca

Position: Executive Director

E-mail: david.montes@ousd.k12.ca.us

Telephone: 510-336-7500

Fax:

Bargaining Unit: Date: 12/21/2012

Name: Oakland Education Association

Representative: Trish Gorham

Title: President

Position: Support

Comments:

**Waiver Number:** 45-1-2013  
2012

**Period of Request:** July 1, 2011, to June 30,

Markham Elementary School  
6002059  
Oakland Unified School District

**Period Recommended:** July 1, 2011, to June 30, 2012

**CDS Code:** 01 61259

**Local Educational Agency Request:**

Oakland Unified School District (USD) is an urban district located in Alameda County with a student population of approximately 46,472 students. Markham Elementary School (ES) serves 361 students in kindergarten and grades one through five. Monitoring performed by the Alameda County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were not fully met by Markham ES in school year 2011–12. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 25.0 and 17.67 in grades four and five, respectively.

Oakland USD states that Markham ES made a good-faith effort to stay within QEIA CSR targets in 2011–12, but the school's instructional model of having combination classes for all grades four and five students became difficult to balance. The district adds that the site was forced to slightly exceed targets in grade five as the grade four total population was slightly larger than grade five.

Oakland USD requests a waiver of the QEIA CSR target for grade five at Markham ES for school year 2011–12, and the establishment of an alternative CSR target of 19.2 students on average in core classes in grade five.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Oakland USD's request to increase its CSR target for grade five at Markham ES for school year 2011–12.

The CDE recommends approval with the following conditions: (1) Applies only to grade five at Markham ES for school year 2011–12; and (2) Within 30 days of approval of this waiver, Oakland USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by QEIA Leadership Advisory Committee on January 8, 2013.

Supported by Oakland Education Association, December 21, 2012.

**Local Board Approval:** January 9, 2013.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0161259      Waiver Number: 45-1-2013      Active Year: 2013

Date In: 1/10/2013 1:38:27 PM

Local Education Agency: Oakland Unified School District  
Address: 1025 Second Ave.  
Oakland, CA 94606

Start: 7/1/2011      End: 6/30/2012

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

- (1) Meet all of the following class size requirements:
  - (A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program Chapter 6.10 (commencing with Section 52120)).
  - (B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
    - (i) At least five pupils fewer per classroom than was the average in 2006-07.
    - (ii) An average of 25 pupils per classroom.
    - (iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the school site. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

Outcome Rationale: This Waiver is requesting that the Class Size Reduction Targets established for Markham Elementary School of 17.7 students in grade 5 be increased to 19.2 for the 2011-12 school year in light of the following circumstances:

The school made a good-faith effort to stay within QEIA class size targets in 2011-12. The school's instructional model is to have 4th-5th grade combination classes for all 4th and 5th grade students. In order to balance class configurations between the number of 4th and 5th grade students per class, the site was forced to slightly exceed targets in 5th grade as the 4th grade total population was slightly larger than 5th grade.

Student Population: 361

City Type: Urban

Public Hearing Date: 1/9/2013

Public Hearing Advertised: The public hearing was advertised via the District Board of Education online system.

Local Board Approval Date: 1/9/2013

Committee/Council Reviewed By: QEIA Leadership Advisory Committee

Committee/Council Reviewed Date: 1/8/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. David Montes de Oca

Position: Executive Director

E-mail: david.montes@ousd.k12.ca.us

Telephone: 510-336-7500

Fax:

Bargaining Unit: Date: 12/21/2012

Name: Oakland Education Association

Representative: Trish Gorham

Title: President

Position: Support

Comments:

**Waiver Number:** 46-1-2013  
2012

**Period of Request:** July 1, 2011, to June 30,

2012

**Period Recommended:** July 1, 2011, to June 30,

New Highland Elementary School  
6001903  
Oakland Unified School District

**CDS Code:** 01 61259

**Local Educational Agency Request:**

Oakland Unified School District (USD) is an urban district located in Alameda County with a student population of approximately 46,472 students. New Highland Elementary School (ES) serves 297 students in kindergarten and grades one through five. Monitoring performed by the Alameda County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were not fully met by New Highland ES in school year 2011–12. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 20.0 and 19.5 in grades four and five, respectively.

Oakland USD states that New Highland ES made a good-faith effort to stay within QEIA CSR targets in 2011–12, but in order to meet student demand and to maintain the instructional integrity of the program, the school had to slightly exceed class size targets in grade five by 0.2 students. The district further states that the school remained in range of the targets, and below an average of 20 students per class.

Oakland USD requests a waiver of the QEIA CSR target for grade five at New Highland ES for school year 2011–12, and the establishment of an alternative CSR target of 19.7 students on average in core classes in grade five.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Oakland USD's request to increase its CSR target for grade five at New Highland ES for school year 2011–12.

The CDE recommends approval with the following conditions: (1) Applies only to grade five at New Highland ES for school year 2011–12; and (2) Within 30 days of approval of this waiver, Oakland USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by QEIA Leadership Advisory Committee on January 8, 2013.

Supported by Oakland Education Association, December 21, 2012.

**Local Board Approval:** January 9, 2013.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0161259      Waiver Number: 46-1-2013      Active Year: 2013

Date In: 1/10/2013 1:42:00 PM

Local Education Agency: Oakland Unified School District  
Address: 1025 Second Ave.  
Oakland, CA 94606

Start: 7/10/2011      End: 6/30/2012

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

- (1) Meet all of the following class size requirements:
  - (A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program Chapter 6.10 (commencing with Section 52120)).
  - (B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
    - (i) At least five pupils fewer per classroom than was the average in 2006-07.
    - (ii) An average of 25 pupils per classroom.
    - (iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the school site. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

Outcome Rationale: This Waiver is requesting that the Class Size Reduction Targets established for New Highland Elementary School of 19.5 students in grade 4 be increased to 19.7 for the 2011-12 school year in light of the following circumstances:

The school made a good-faith effort to stay within QEIA class size targets in 2011-12. In order to meet student demand and to maintain the instructional integrity of the program, the school had to slightly exceed class size targets in 4th grade by 0.2 students. The school remained in range of the targets, and below an average of 20 students per class.

Student Population: 297

City Type: Urban

Public Hearing Date: 1/9/2013

Public Hearing Advertised: The public hearing was advertised via the District Board of Education online system.

Local Board Approval Date: 1/9/2013

Committee/Council Reviewed By: QEIA Leadership Advisory Committee

Committee/Council Reviewed Date: 1/8/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. David Montes de Oca

Position: Executive Director

E-mail: david.montes@ousd.k12.ca.us

Telephone: 510-336-7500

Fax:

Bargaining Unit: Date: 12/21/2012

Name: Oakland Education Association

Representative: Trish Gorham

Title: President

Position: Support

Comments:



**Waiver Number:** 74-1-2013  
2015

**Period of Request:** July 1, 2013, to June 30,

2014

Del Norte Elementary School  
6036214

**Period Recommended:** July 1, 2013, to June 30,

**CDS Code:** 36 67819

Ontario-Montclair Elementary School District

**Local Educational Agency Request:**

Ontario-Montclair Elementary School District (ESD) is an urban district located in San Bernardino County with a student population of approximately 22,569 students. Del Norte Elementary School (ES) serves 748 students in transitional kindergarten, kindergarten, and grades one through six. Monitoring performed by the San Bernardino County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Del Norte ES in school year 2011–12, but the district is asking for an alternative QEIA CSR target for school years 2013–14 and 2014–15. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in transitional kindergarten, kindergarten and grades one through three, and an average of 25.0, 23.5, 23.8 in grades four through six, respectively.

Ontario-Montclair ESD states that due to the ongoing financial crisis facing California public schools, the district has reached a point where it can no longer sustain the QEIA general fund encroachment and fund the necessary teachers to meet such low CSR requirements. In addition, the district states that such low QEIA CSR ratios have forced neighborhood students to be "overflowed" to non-QEIA schools through busing, which adds additional costs.

Ontario-Montclair ESD requests a waiver of the QEIA CSR targets for transitional kindergarten, kindergarten and grades one through three, and grades five and six at Del Norte ES for school years 2013–14 and 2014–15, and the establishment of alternative CSR targets of 25.0 students per class in core classes in transitional kindergarten, kindergarten and grades one through three, and 25.0 students on average in core classes in grades five and six.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Ontario-Montclair ESD's request to increase its CSR targets for transitional kindergarten, kindergarten and grades one through three, and grades five and six at Del Norte ES for school year 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to transitional kindergarten, kindergarten and grades one through three, and grades five and six at Del Norte ES for school year 2013–14; (2) Del Norte ES increases enrollment to 25.0 per class in core classes in transitional kindergarten, kindergarten and grades one through three, and 25.0 students per class on average in core classes in grades five and six; (3) No core class in grades four through six may exceed 27 students per classroom regardless of the average classroom size; and (4) Within 30 days of approval of this waiver, Ontario-Montclair ESD must provide to the CDE a description, including costs covered by QEIA funds, of

professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Del Norte ES Council on January 10, 2013.

Neutral position taken by Ontario-Montclair Teachers Association, September 21, 2012.

**Local Board Approval:** October 18, 2012.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3667819      Waiver Number: 74-1-2013      Active Year: 2013

Date In: 1/24/2013 12:37:21 PM

Local Education Agency: Ontario-Montclair Elementary School District  
Address: 950 West D St.  
Ontario, CA 91762

Start: 7/1/2013      End: 6/30/2015

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740. (a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

- (1) Meet all of the following class size requirements:
  - (A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).
  - (B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
    - (i) At least five pupils fewer per classroom than was the average in 2006-07.
    - (ii) An average of 25 pupils per classroom.
    - (iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

Outcome Rationale: The Ontario-Montclair Teachers Association (OMTA) chooses to remain "neutral" in regards to the Ontario-Montclair School District (OMSD) seeking waivers to increase the established QEIA CSR ratios. We strongly believe having a ratio of 20-1 in the primary grades and 25-1 in the upper grades has been extremely beneficial to our teachers and more importantly to our students learning. Since the passage of Proposition 30, OMTA believes that OMSD should continue their commitment to the QEIA program and keep the current class size ratios as is.

However, we realize the negative impact on “overflowing” our QEIA students to other schools. We support allowing the district some flexibility in minimally raising class sizes when it is in the best interest of our students, families, and teachers.

Student Population: 748

City Type: Urban

Public Hearing Date: 10/18/2012

Public Hearing Advertised: Newspaper, OMSD Website, District and School postings

Local Board Approval Date: 10/18/2012

Committee/Council Reviewed By: Del Norte School Site Council

Committee/Council Reviewed Date: 1/10/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Robert Gallagher

Position: Director II, State and Federal Programs

E-mail: robert.gallagher@omsd.net

Telephone: 909-418-6562

Fax:

Bargaining Unit: Date: 09/21/2012

Name: Ontario-Montclair Teacher's Association

Representative: Amy Tompkins

Title: President

Position: Neutral

Comments:

**Waiver Number:** 76-1-2013  
2015

**Period of Request:** July 1, 2013, to June 30,

2014

Central Language Academy  
6036164

**Period Recommended:** July 1, 2013, to June 30,

**CDS Code:** 36 67819

Ontario-Montclair Elementary School District

### **Local Educational Agency Request:**

Ontario-Montclair Elementary School District (ESD) is an urban district located in San Bernardino County with a student population of approximately 22,569 students. Central Language Academy serves 625 students in transitional kindergarten, kindergarten, and grades one through eight. Monitoring performed by the San Bernardino County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Central Language Academy in school year 2011–12, but the district is asking for an alternative QEIA CSR target for school years 2013–14 and 2014–15. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in transitional kindergarten, kindergarten and grades one through three, and an average of 25.0, 23.0, 21.5, 21.9, and 22.9 in grades four through eight, respectively.

Ontario-Montclair ESD states that due to the ongoing financial crisis facing California public schools, the district has reached a point where it can no longer sustain the QEIA general fund encroachment and fund the necessary teachers to meet such low CSR requirements. The district further states that since the implementation of QEIA, Ontario-Montclair ESD has lost \$988 per student (18%) in annual revenue limit funding and this has caused a dramatic increase of class size ratios in all non-QEIA elementary schools as well as teacher reductions. In addition, the district states that such low QEIA CSR ratios have forced neighborhood students to be "overflowed" to non-QEIA schools through busing, which adds additional costs.

Ontario-Montclair ESD requests a waiver of the QEIA CSR targets for transitional kindergarten, kindergarten and grades one through three, and grades five through eight at Central Language Academy for school years 2013–14 and 2014–15, and the establishment of alternative CSR targets of 25.0 students per class in core classes in transitional kindergarten, kindergarten and grades one through three, and 25.0 students on average in core classes in grades five through eight.

### **California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Ontario-Montclair ESD's request to increase its CSR targets for transitional kindergarten, kindergarten and grades one through three, and grades five through eight at Central Language Academy for school year 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to transitional kindergarten, kindergarten and grades one through three, and grades five through eight at Central Language Academy for school year 2013–14; (2) Central Language Academy increases enrollment to 25.0 per class in core classes in transitional kindergarten, kindergarten and grades one through three, and 25.0 students per class on average in core

classes in grades five through eight; (3) No core class in grades four through six may exceed 27 students per classroom regardless of the average classroom size; and (4) Within 30 days of approval of this waiver, Ontario-Montclair ESD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Central Language Academy Schoolsite Council on January 10, 2013.

Neutral position taken by Ontario-Montclair Teachers Association, September 21, 2012.

**Local Board Approval:** October 18, 2012.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3667819      Waiver Number: 76-1-2013      Active Year: 2013

Date In: 1/24/2013 12:44:24 PM

Local Education Agency: Ontario-Montclair Elementary School District  
Address: 950 West D St.  
Ontario, CA 91762

Start: 7/1/2013      End: 6/30/2015

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740. (a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 52055.740.(a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

- (1) Meet all of the following class size requirements:
  - (A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).
  - (B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
    - (i) At least five pupils fewer per classroom than was the average in 2006-07.
    - (ii) An average of 25 pupils per classroom.
    - (iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

Outcome Rationale: The Ontario-Montclair Teachers Association (OMTA) chooses to remain "neutral" in regards to the Ontario-Montclair School District (OMSD) seeking waivers to increase the established QEIA CSR ratios. We strongly believe having a ratio of 20-1 in the primary grades and 25-1 in the upper grades has been extremely beneficial to our teachers and more importantly to our students learning. Since the passage of Proposition 30, OMTA believes that OMSD should continue their commitment to the QEIA program and keep the current class size ratios as is.

However, we realize the negative impact on “overflowing” our QEIA students to other schools. We support allowing the district some flexibility in minimally raising class sizes when it is in the best interest of our students, families, and teachers.

Student Population: 625

City Type: Urban

Public Hearing Date: 10/18/2012

Public Hearing Advertised: Newspaper, OMSD Website, District and School postings

Local Board Approval Date: 10/18/2012

Committee/Council Reviewed By: Central Language Academy School Site Council

Committee/Council Reviewed Date: 1/10/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Robert Gallagher

Position: Director II, State and Federal Programs

E-mail: robert.gallagher@omsd.net

Telephone: 909-418-6562

Fax:

Bargaining Unit: Date: 09/21/2012

Name: Ontario-Montclair Teacher's Association

Representative: Amy Tompkins

Title: President

Position: Neutral

Comments:



**Waiver Number:** 77-1-2013  
2015

**Period of Request:** July 1, 2013 to June 30,

Euclid Elementary School  
Ontario-Montclair Elementary School District

**Period Recommended:** July 1, 2013, to June 30, 2014

**CDS Code:** 36 67819 6036255

### **Local Educational Agency Request:**

Ontario-Montclair Elementary School District (ESD) is an urban district located in San Bernardino County with a student population of approximately 22,569 students. Euclid Elementary School (ES) serves 595 students in transitional kindergarten, kindergarten, and grades one through six. Monitoring performed by the San Bernardino County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Euclid ES in school year 2011–12, but the district is asking for an alternative QEIA CSR target for school years 2013–14 and 2014–15. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in transitional kindergarten, kindergarten and grades one through three, and an average of 25.0, 24.8, 25.0 in grades four through six, respectively.

Ontario-Montclair ESD states that due to the ongoing financial crisis facing California public schools, the district has reached a point where it can no longer sustain the QEIA general fund encroachment and fund the necessary teachers to meet such low CSR requirements. In addition, the district states that such low QEIA CSR ratios have forced neighborhood students to be “overflowed” to non-QEIA schools through busing, which adds additional costs.

Ontario-Montclair ESD requests a waiver of the QEIA CSR targets for transitional kindergarten, kindergarten and grades one through three, and grades five and six at Euclid ES for school years 2013–14 and 2014–15, and the establishment of alternative CSR targets of 25.0 students per class in core classes in transitional kindergarten, kindergarten and grades one through three, and 25.0 students on average in core classes in grade five.

### **California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Ontario-Montclair ESD's request to increase its QEIA CSR targets for transitional kindergarten, kindergarten and grades one through three, and grade five at Euclid ES for school year 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to transitional kindergarten, kindergarten and grades one through three, and grade five at Euclid ES for school year 2013–14; (2) Euclid ES increases enrollment to 25.0 students per class in core classes in transitional kindergarten, kindergarten and grades one through three, and 25.0 students per class on average in core classes in grade five; (3) No core class in grades four through six may exceed 27 students per classroom regardless of the average classroom size; and (4) Within 30 days of approval of this waiver, Ontario-Montclair ESD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Euclid ES Schoolsite Council on January 17, 2013.

Neutral position taken by Ontario-Montclair Teachers Association, September 21, 2012.

**Local Board Approval:** October 18, 2012.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3667819      Waiver Number: 77-1-2013      Active Year: 2013

Date In: 1/24/2013 12:51:04 PM

Local Education Agency: Ontario-Montclair Elementary School District  
Address: 950 West D St.  
Ontario, CA 91762

Start: 7/1/2013      End: 6/30/2015

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740. (a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 52055.740.(a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

- (1) Meet all of the following class size requirements:
  - (A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).
  - (B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
    - (i) At least five pupils fewer per classroom than was the average in 2006-07.
    - (ii) An average of 25 pupils per classroom.
    - (iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

Outcome Rationale: The Ontario-Montclair Teachers Association (OMTA) chooses to remain "neutral" in regards to the Ontario-Montclair School District (OMSD) seeking waivers to increase the established QEIA CSR ratios. We strongly believe having a ratio of 20-1 in the primary grades and 25-1 in the upper grades has been extremely beneficial to our teachers and more importantly to our students learning. Since the passage of Proposition 30, OMTA believes that OMSD should continue their commitment to the QEIA program and keep the current class size ratios as is.

However, we realize the negative impact on “overflowing” our QEIA students to other schools. We support allowing the district some flexibility in minimally raising class sizes when it is in the best interest of our students, families, and teachers.

Student Population: 595

City Type: Urban

Public Hearing Date: 10/18/2012

Public Hearing Advertised: Newspaper, OMSD Website, District and School postings

Local Board Approval Date: 10/18/2012

Committee/Council Reviewed By: Euclid School Site Council

Committee/Council Reviewed Date: 1/17/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Robert Gallagher

Position: Director II, State and Federal Programs

E-mail: robert.gallagher@omsd.net

Telephone: 909-418-6562

Fax:

Bargaining Unit: Date: 09/21/2012

Name: Ontario-Montclair Teacher's Association

Representative: Amy Tompkins

Title: President

Position: Neutral

Comments:

**Waiver Number:** 78-1-2013  
2015

**Period of Request:** July 1, 2013, to June 30,

2014

Mariposa Elementary School  
6036347

**Period Recommended:** July 1, 2013, to June 30,

**CDS Code:** 36 67819

Ontario-Montclair Elementary School District

### **Local Educational Agency Request:**

Ontario-Montclair Elementary School District (ESD) is an urban district located in San Bernardino County with a student population of approximately 22,569 students. Mariposa Elementary School (ES) serves 700 students in transitional kindergarten, kindergarten, and grades one through six. Monitoring performed by the San Bernardino County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Mariposa ES in school year 2011–12, but the district is asking for an alternative QEIA CSR target for school years 2013–14 and 2014–15. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in transitional kindergarten, kindergarten and grades one through three, and an average of 24.0, 25.0, 24.3 in grades four through six, respectively.

Ontario-Montclair ESD states that due to the ongoing financial crisis facing California public schools, the district has reached a point where it can no longer sustain the QEIA general fund encroachment and fund the necessary teachers to meet such low CSR requirements. The district further states that since the implementation of QEIA, Ontario-Montclair ESD has lost \$988 per student (18%) in annual revenue limit funding and this has caused a dramatic increase of class size ratios in all non-QEIA elementary schools as well as teacher reductions.

Ontario-Montclair ESD requests a waiver of the QEIA CSR targets for transitional kindergarten, kindergarten and grades one through three, and grades four and six at Mariposa ES for school years 2013–14 and 2014–15, and the establishment of alternative CSR targets of 25.0 students per class in core classes in transitional kindergarten, kindergarten and grades one through three, and 25.0 students on average in core classes in grades four and six.

### **California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Ontario-Montclair ESD's request to increase its CSR targets for transitional kindergarten, kindergarten and grades one through three, and grades four and six at Mariposa ES for school year 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to transitional kindergarten, kindergarten and grades one through three, and grades four and six at Mariposa ES for school year 2013–14; (2) Mariposa ES increases enrollment to 25.0 per class in core classes in transitional kindergarten, kindergarten and grades one through three, and 25.0 students on average per class in core classes in grades four and six; (3) No core class in grades four through six may exceed 27 students per classroom regardless of the average classroom size; and (4) Within 30 days of approval of this waiver, Ontario-

Montclair ESD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Mariposa ES Schoolsite Council on January 16, 2013.

Neutral position taken by Ontario-Montclair Teachers Association, September 21, 2012.

**Local Board Approval:** October 18, 2012.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3667819      Waiver Number: 78-1-2013      Active Year: 2013

Date In: 1/24/2013 12:56:57 PM

Local Education Agency: Ontario-Montclair Elementary School District  
Address: 950 West D St.  
Ontario, CA 91762

Start: 7/1/2013      End: 6/30/2015

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740. (a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 52055.740.(a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

- (1) Meet all of the following class size requirements:
  - (A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).
  - (B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
    - (i) At least five pupils fewer per classroom than was the average in 2006-07.
    - (ii) An average of 25 pupils per classroom.
    - (iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

Outcome Rationale: The Ontario-Montclair Teachers Association (OMTA) chooses to remain "neutral" in regards to the Ontario-Montclair School District (OMSD) seeking waivers to increase the established QEIA CSR ratios. We strongly believe having a ratio of 20-1 in the primary grades and 25-1 in the upper grades has been extremely beneficial to our teachers and more importantly to our students learning. Since the passage of Proposition 30, OMTA believes that OMSD should continue their commitment to the QEIA program and keep the current class size ratios as is.

However, we realize the negative impact on “overflowing” our QEIA students to other schools. We support allowing the district some flexibility in minimally raising class sizes when it is in the best interest of our students, families, and teachers.

Student Population: 700

City Type: Urban

Public Hearing Date: 10/18/2012

Public Hearing Advertised: Newspaper, OMSD Website, District and School postings

Local Board Approval Date: 10/18/2012

Committee/Council Reviewed By: Mariposa School Site Council

Committee/Council Reviewed Date: 1/16/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Robert Gallagher

Position: Director II, State and Federal Programs

E-mail: robert.gallagher@omsd.net

Telephone: 909-418-6562

Fax:

Bargaining Unit: Date: 09/21/2012

Name: Ontario-Montclair Teacher's Association

Representative: Amy Tompkins

Title: President

Position: Neutral

Comments:



**Waiver Number:** 43-2-2013  
2015

**Period of Request:** July 1, 2013, to June 29,

Esplanade Elementary School  
6029771  
Orange Unified School District

**Period Recommended:** July 1, 2013, to June 30, 2014  
**CDS Code:** 30 66621

### **Local Educational Agency Request:**

Orange Unified School District (USD) is an urban district located in Orange County with a student population of approximately 30,000 students. Esplanade Elementary School (ES) serves 462 students in kindergarten and grades one through six. Monitoring performed by the Orange County Department of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Esplanade ES in school year 2011–12, but the district is asking for an alternative QEIA CSR target for school years 2013–14 and 2014–15. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 25.0 in grades four through six, respectively.

Orange USD states that due to fiscal constraints, the district recalculated class sizes and increased the student-to-teacher ratio in all non-QEIA schools to 30:1 in kindergarten and grades one and two, and 33:1 in grades three through six. In addition, the district states that the success of Esplanade ES is attributed to the advantages of lower class size. With the general fund currently funding additional teachers to meet the QEIA class size requirement, the district states that it is unable to sustain salaries through the current CSR requirement.

Orange USD requests a waiver of the QEIA CSR targets for kindergarten and grades one through three at Esplanade ES for school years 2013–14 and 2014–15, and the establishment of alternative CSR targets of 25.0 students per class in core classes in kindergarten and grades one through three.

### **California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Orange USD's request to increase its CSR targets for kindergarten and grades one through three at Esplanade ES for school year 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to kindergarten and grades one through three at Esplanade ES for school year 2013–14; (2) Esplanade ES increases enrollment to 25.0 per class in core classes in kindergarten and grades one through three; and (3) Within 30 days of approval of this waiver, Orange USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Esplanade ES Schoolsite Council on February 4, 2013.

Supported by California School Employees Association and Orange Unified Education Association, February 1 and February 5, 2013, respectively.

**Local Board Approval:** February 21, 2013.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3066621      Waiver Number: 43-2-2013      Active Year: 2013

Date In: 2/22/2013 6:48:42 PM

Local Education Agency: Orange Unified School District  
Address: 1401 North Handy St.  
Orange, CA 92867

Start: 7/1/2013      End: 6/29/2015

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740. (a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

- (1) Meet all of the following class size requirements:
  - (A) For kindergarten and grades 1 to 3, inclusive, [no more than 20 pupils per class], as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

Outcome Rationale: Esplanade Elementary School  
Orange Unified School District

Esplanade Elementary is part of the Orange Unified School District, an urban school district located in Orange County, which serves nearly 30,000 students. It is located in an older, established neighborhood on the east side of the city of Orange that currently serves 462 students from kindergarten through sixth grade. Esplanade Elementary School's Quality Education Investment Act (QEIA) Class Size Reduction (CSR) targets for kindergarten through grade three are 20.44, and 25 for grades four through six.

Esplanade Elementary has made significant progress through its participation in the QEIA program. It is a Title I school with increased API scores of 127 points for the last 5 years and close to exiting Program Improvement status despite their challenges of serving a diverse student population, where the student make up consists of the following: Latino/Hispanic (94%), English Language Learners (65%) and Free or Reduced Lunch (94%). Furthermore, over half of the students at Esplanade ES come from households with limited education completion (no high school diploma). As a result of small class sizes, teachers have the opportunity to meet individualized student needs, monitor student progress and develop action plans to ensure an optimal learning environment. Furthermore, Esplanade ES has seen positive changes due to its participation in the QEIA program which include teachers participating in over 40 hours of

professional development yearly and hold academic chats with each student to set learning goals. This waiver will allow students to continue to receive high levels of instruction to increase their achievement growth.

Due to fiscal constraints, Orange Unified School District recalculated class sizes and increased the student-to-teacher ratio in all non QEIA schools in the district in subsequent years. Hence, all non-QEIA classes have grown into 30:1 in K-2 and 33:1 in 3rd-6th staffing ratio. The general fund is currently having to fund additional teachers to meet the QEIA class size requirement at Esplanade ES and is unable to sustain salaries through the CSR requirement. The school staff, community and district is in full support of continuing the QEIA program goals and objectives, as the school has been increasing their student achievement, evidenced through increased API scores gain for the last 5 years attributing its success to better serve children through the advantages of lower class size. Hence, the requests for a two year waiver in grades Kindergarten to three for a revised class size target of 25.0 for each class is necessary.

**Desired Outcome:**

Orange Unified School District and Esplanade Elementary School are requesting a waiver to continue in the QEIA Program for the 2013-2014 and 2014-2015 school years in order to benefit all students in the school with lower class size and improved student learning at this Title I school, through a revised class size reduction target to 25.0 in grades Kindergarten through three for each class.

Student Population: 462

City Type: Urban

Public Hearing Date: 2/21/2013

Public Hearing Advertised: Notice posted at each school site and district office

Local Board Approval Date: 2/21/2013

Committee/Council Reviewed By: School Site Council

Committee/Council Reviewed Date: 2/4/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Cyndi Paik

Position: Admin Director, Accountability & Special Programs

E-mail: cypaik@orangeusd.org

Telephone: 714-628-5405

Fax:

Bargaining Unit: Date: 02/01/2013  
Name: California School Employees Association  
Representative: Manny Orozco  
Title: CSEA Chapter #67 President  
Position: Support  
Comments:

Bargaining Unit: Date: 02/05/2013  
Name: Orange Unified Education Association  
Representative: Whitney Amsbary  
Title: Orange Unified Education Association, President  
Position: Support  
Comments:

**Waiver Number:** 44-2-2013  
2015

**Period of Request:** July 1, 2013, to June 29,

Handy Elementary School  
Orange Unified School District

**Period Recommended:** July 1, 2013, to June 30, 2014  
**CDS Code:** 30 66621 6029805

### **Local Educational Agency Request:**

Orange Unified School District (USD) is an urban district located in Orange County with a student population of approximately 30,000 students. Handy Elementary School (ES) serves 525 students in kindergarten and grades one through six. Monitoring performed by the Orange County Department of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Handy ES in school year 2011–12, but the district is asking for an alternative QEIA CSR target for school years 2013–14 and 2014–15. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 25.0 in grades four through six, respectively.

Orange USD states that due to fiscal constraints, the district recalculated class sizes and increased the student-to-teacher ratio in all non-QEIA schools to 30:1 in kindergarten and grades one and two, and 33:1 in grades three through six. In addition, the district states that the success of Handy ES is attributed to the advantages of lower class size. With the general fund currently funding additional teachers to meet the QEIA class size requirement, the district states that it is unable to sustain salaries through the current CSR requirement.

Orange USD requests a waiver of the QEIA CSR targets for kindergarten and grades one through three at Handy ES for school years 2013–14 and 2014–15, and the establishment of alternative CSR targets of 25.0 students per class in core classes in kindergarten and grades one through three.

### **California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Orange USD's request to increase its CSR targets for kindergarten and grades one through three at Handy ES for school year 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to kindergarten and grades one through three at Handy ES for school year 2013–14; (2) Handy ES increases enrollment to 25.0 per class in core classes in kindergarten and grades one through three; and (3) Within 30 days of approval of this waiver, Orange USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Handy ES Schoolsite Council on February 6, 2013.

Supported by California School Employees Association and Orange Unified Education Association, February 1 and February 5, 2013, respectively.

**Local Board Approval:** February 21, 2013.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3066621      Waiver Number: 44-2-2013      Active Year: 2013

Date In: 2/22/2013 6:59:42 PM

Local Education Agency: Orange Unified School District  
Address: 1401 North Handy St.  
Orange, CA 92867

Start: 7/1/2013      End: 6/29/2015

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740. (a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

- (1) Meet all of the following class size requirements:
  - (A) For kindergarten and grades 1 to 3, inclusive, [no more than 20 pupils per class], as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

Outcome Rationale: Handy Elementary School  
Orange Unified School District

Handy Elementary is part of the Orange Unified School District, an urban school district located in Orange County, which serves nearly 30,000 students. It is located centrally in the city of Orange that currently serves 525 students from kindergarten through sixth grade. Handy Elementary School's Quality Education Investment Act (QEIA) Class Size Reduction (CSR) targets for kindergarten through grade three are 20.44, and 25 for grades four through six.

Handy Elementary, a Title I school, has increased their API scores for the last 5 years with a total of 145 points gain and close to exiting Program Improvement status despite their challenges of serving a diverse student population, where the student make up consists of the following: Latino/Hispanic (93%), English Language Learners (67%) and Free or Reduced Lunch (91%). Furthermore, over half of the students at Handy ES come from households with limited education completion (no high school diploma). As a result of small class sizes, teachers have the opportunity to meet individualized student needs, monitor student progress and develop action plans to ensure an optimal learning environment. Furthermore, Handy ES has seen positive changes due to its participation in the QEIA program which include teachers participating in over 40 hours of professional development yearly and hold academic chats with



each student to set learning goals. This waiver will allow students to continue to receive high levels of instruction to increase their achievement growth.

Due to fiscal constraints, Orange Unified School District recalculated class sizes and increased the student-to-teacher ratio in all non QEIA schools in the district in subsequent years. Hence, all non-QEIA classes have grown into 30:1 in K-2 and 33:1 in 3rd-6th staffing ratio. The general fund is currently having to fund additional teachers to meet the QEIA class size requirement at Handy ES and is unable to sustain salaries through the CSR requirement. The school staff, community and district is in full support of continuing the QEIA program goals and objectives, as the school has been increasing their student achievement, evidenced through increased API score gains for the last 5 years and attributing its success to better serve children through the advantages of lower class size. Hence, the requests for a two year waiver in grades Kindergarten to three for a revised class size target of 25.0 for each class is necessary.

Desired Outcome:

Orange Unified School District and Handy Elementary School are requesting a waiver to continue in the QEIA Program for the 2013-2014 and 2014-2015 school years in order to benefit all students in the school with lower class size and improved student learning at this Title I school, through a revised class size reduction target to 25.0 in grades Kindergarten through three for each class.

Student Population: 525

City Type: Urban

Public Hearing Date: 2/21/2013

Public Hearing Advertised: Notice posted at school site, Handy Elementary and district office

Local Board Approval Date: 2/21/2013

Committee/Council Reviewed By: School site council

Committee/Council Reviewed Date: 2/6/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Cyndi Paik

Position: Admin Director, Accountability & Special Programs

E-mail: cypaik@orangeusd.org

Telephone: 714-628-5405

Fax:

Bargaining Unit: Date: 02/01/2013

Name: California School Employees Association

Representative: Manny Orozco

Title: CSEA Chapter # 67 President

Position: Support

Comments:

Bargaining Unit: Date: 02/05/2013  
Name: Orange Unified Education Association  
Representative: Whitney Amsbary  
Title: OUEA President  
Position: Support  
Comments:

**Waiver Number:** 45-2-2013  
2015

**Period of Request:** July 1, 2013, to June 29,

2014

**Period Recommended:** July 1, 2013, to June 30,

Fairhaven Elementary School  
Orange Unified School District

**CDS Code:** 30-66621-6029789

### **Local Educational Agency Request:**

Orange Unified School District (USD) is an urban district located in Orange County with a student population of approximately 30,000 students. Fairhaven Elementary School (ES) serves 548 students in kindergarten and grades one through six. Monitoring performed by the Orange County Department of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Fairhaven ES by in school year 2011–12, but the district is asking for an alternative QEIA CSR target for school years 2013–14 and 2014–15. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 25.0 in grades four through six, respectively.

Orange USD states that due to fiscal constraints, the district recalculated class sizes and increased the student-to-teacher ratio in all non-QEIA schools to 30:1 in kindergarten and grades one and two, and 33:1 in grades three through six. In addition, the district states that the success of Fairhaven ES is attributed to the advantages of lower class size. With the general fund currently funding additional teachers to meet the QEIA class size requirement, the district states that it is unable to sustain salaries through the current CSR requirement.

Orange USD requests a waiver of the QEIA CSR targets for kindergarten and grades one through three at Fairhaven ES for school years 2013–14 and 2014–15, and the establishment of alternative CSR targets of 25.0 students per class in core classes in kindergarten and grades one through three.

### **California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Orange USD's request to increase its CSR targets for kindergarten and grades one through three at Fairhaven ES for school year 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to kindergarten and grades one through three at Fairhaven ES for school year 2013–14; (2) Fairhaven ES increases enrollment to 25.0 per class in core classes in kindergarten and grades one through three; and (3) Within 30 days of approval of this waiver, Orange USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Fairhaven ES Schoolsite Council on February 11, 2013.

Supported by California School Employees Association and Orange Unified Education Association, February 1 and February 5, 2013, respectively.

**Local Board Approval:** February 21, 2013.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3066621      Waiver Number: 45-2-2013      Active Year: 2013

Date In: 2/22/2013 7:08:06 PM

Local Education Agency: Orange Unified School District  
Address: 1401 North Handy St.  
Orange, CA 92867

Start: 7/1/2013      End: 6/29/2015

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740. (a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

- (1) Meet all of the following class size requirements:
  - (A) For kindergarten and grades 1 to 3, inclusive, [no more than 20 pupils per class], as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

Outcome Rationale: Fairhaven Elementary School  
Orange Unified School District

Fairhaven Elementary is part of the Orange Unified School District, an urban school district located in Orange County, which serves nearly 30,000 students. Fairhaven is an inclusive, neighborhood school that currently serves 548 students from kindergarten through sixth grade that borders Santa Ana USD. Fairhaven Elementary School's Quality Education Investment Act (QEIA) Class Size Reduction (CSR) targets for kindergarten through grade three are 20.44, and 25 for grades four through six.

Fairhaven Elementary, a Title I school, was one of the four schools in Orange County, California to exit the Program Improvement status in 2010 as a result of increased state test scores of over ninety points in the last two years. Its 2012 API score is 794. The school was also one of three schools in the state to be awarded the National Blue Ribbon Award as an Exemplary Improving School in 2012, overcoming their challenges of serving a diverse student population, where the student make up consists of the following: Latino/Hispanic (92%), English Language Learners (63%) and Free or Reduced Lunch (93%). Furthermore, over half of the students at Fairhaven ES come from households with limited education completion (no high school diploma). As a result of small class sizes, teachers have the opportunity to meet individualized student needs, monitor student progress and develop action plans to ensure increased student

learning. It would be devastating to the learning community to interrupt such excellent progress attributed to the advantages of QEIA funding.

Due to fiscal constraints, Orange Unified School District recalculated class sizes and increased the student-to-teacher ratio in all non QEIA schools in the district in subsequent years. Hence, all non-QEIA classes have grown into 30:1 in K-2 and 33:1 in 3rd-6th staffing ratio. The general fund is currently having to fund additional teachers to meet the QEIA class size requirement at Fairhaven ES and is unable to sustain salaries through the CSR requirement. The school staff, community and district is in full support of continuing the QEIA program goals and objectives, as the school has been awarded the 2012 National Blue Ribbon Award attributing its success to better serve children through the advantages of lower class size. Hence, the requests for a two year waiver in grades Kindergarten to three for a revised class size target of 25.0 for each class is necessary.

Desired Outcome:

Orange Unified School District and Fairhaven Elementary School are requesting a waiver to continue in the QEIA Program for the 2013-2014 and 2014-2015 school years in order to benefit all students in the school with lower class size and improved student learning at this Title I school, through a revised class size reduction target to 25.0 in grades Kindergarten through three for each class.

Student Population: 548

City Type: Urban

Public Hearing Date: 2/21/2013

Public Hearing Advertised: Notice posted at school site, Fairhaven Elementary and district office

Local Board Approval Date: 2/21/2013

Committee/Council Reviewed By: School Site Council

Committee/Council Reviewed Date: 2/11/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Cyndi Paik

Position: Admin Director, Accountability & Special Programs

E-mail: cypaik@orangeusd.org

Telephone: 714-628-5405

Fax:

Bargaining Unit: Date: 02/01/2013

Name: California School Employees Association

Representative: Manny Orozco

Title: CSEA Chapter #67 President

Position: Support

Comments:

Bargaining Unit: Date: 02/05/2013  
Name: Orange Unified Education Association  
Representative: Whitney Amsbary  
Title: OUEA President  
Position: Support  
Comments:

**Waiver Number:** 21-2-2013  
2014

**Period of Request:** July 1, 2012, to June 30,

2014

Los Cerritos Elementary School  
6021448  
Paramount Unified School District

**Period Recommended:** July 1, 2012, to June 29,

**CDS Code:** 19 64873

### **Local Educational Agency Request:**

Paramount Unified School District (USD) is an urban district located in Los Angeles County with a student population of approximately 15,929 students. Los Cerritos Elementary School (ES) serves 556 students in kindergarten and grades one through five. Monitoring performed by the Los Angeles County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Los Cerritos ES in school year 2011–12, but the district is asking for an alternative QEIA CSR target for school years 2012–13 and 2013–14. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 20.5 and 21 in grades four and five, respectively.

Paramount USD states that due to the ongoing fiscal crisis facing California public schools, the district has reached a point where it can no longer sustain the QEIA encroachment necessary to fund the teachers required to meet the CSR requirements.

Paramount USD requests a waiver of the QEIA CSR targets for kindergarten and grades one through five at Los Cerritos ES for school years 2012–13 and 2013–14, and the establishment of alternative CSR targets of 25.0 students per class in core classes in kindergarten and grades one through three, and 25.0 students on average in core classes in grades four and five.

### **California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Paramount USD's request to increase its CSR targets for kindergarten and grades one through five at Los Cerritos ES for school years 2012–13 and 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to kindergarten and grades one through five at Los Cerritos ES for school years 2012–13 and 2013–14; (2) Los Cerritos ES increases enrollment to 25.0 per class in core classes in kindergarten and grades one through three, and 25.0 students per class on average in core classes in grades four and five; (3) No core class in grades four and five may exceed 27 students per classroom regardless of the average classroom size; and (4) Within 30 days of approval of this waiver, Paramount USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Los Cerritos ES Schoolsite Council and English Learner Advisory Council on February 6, 2013.



Neutral position taken by Teachers Association of Paramount, February 5, 2013.

**Local Board Approval:** February 13, 2013.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 1964873      Waiver Number: 21-2-2013      Active Year: 2013

Date In: 2/14/2013 11:59:17 AM

Local Education Agency: Paramount Unified School District  
Address: 15110 California Ave.  
Paramount, CA 90723

Start: 7/1/2012      End: 6/30/2014

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive:

*Education Code 52055.740(a)* For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements:

(A) For kindergarten and grades 1-3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

(B) For self-contained classrooms in grades 4-8, inclusive, as average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006-07.

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the school site. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-containing classroom in grades 4-8, inclusive, with more than 27 pupils regardless of its average classroom size.

Outcome Rationale: The Paramount Unified School District on behalf of Los Cerritos School, requests a two year waiver (2012-13 and 2013-14) to *Education Code 52055.740(a)*: QEIA Class Size Reduction. Due to the ongoing fiscal crisis facing California public schools, the Paramount Unified School District has reached a point where it can no longer sustain the QEIA encroachment necessary to fund the teachers required to meet the QEIA CSR requirements. Approval of this waiver would establish new QEIA ratios of 25 to 1 for all Los Cerritos students in grades K-5. English Learners comprise 69% of Los Cerritos' population and 97% of Los Cerritos' students qualify for the Free or Reduced Lunch Program. QEIA funding has had a dramatic impact on student learning, especially in the areas of literacy and English language development, by providing a low student to teacher ratio and a more individualized educational program for all students, and specifically, English Learners.

Student Population: 556

City Type: Urban

Public Hearing Date: 2/13/2013

Public Hearing Advertised: The public hearing was advertised in the newspaper and posted at all schools and District Office.

Local Board Approval Date: 2/13/2013

Committee/Council Reviewed By: School Site Council (SSC) and English Learner Advisory Council (ELAC)

Committee/Council Reviewed Date: 2/6/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Randy Gray

Position: Director - Educational Services

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Telephone: 562-602-6047

Fax: 562-602-8111

Bargaining Unit: Date: 02/05/2013

Name: Teachers' Association of Paramount

Representative: Deb Meyers

Title: President

Position: Neutral

Comments:

**Waiver Number:** 22-2-2013  
2012

**Period of Request:** July 1, 2011, to June 30,

2013

**Period Recommended:** July 1, 2011, to June 29,

Major Lynn Mokler Elementary School  
Paramount Unified School District

**CDS Code:** 19 64873 6021463

### **Local Educational Agency Request:**

Paramount Unified School District (USD) is an urban district located in Los Angeles County with a student population of approximately 15,929 students. Major Lynn Mokler Elementary School (ES) serves 669 students in kindergarten and grades one through five. Monitoring performed by the Los Angeles County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were not fully met by Major Lynn Mokler ES in school year 2011–12. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 25.0 and 23.3 in grades four and five, respectively.

Paramount USD states that in school year 2011–12, two kindergarten classes missed the CSR target by .02, or less than one student, which placed the school in jeopardy of losing QEIA funding for 2013–14. In addition, the district states that due to the ongoing fiscal crisis facing California public schools, the district has reached a point where it can no longer sustain the QEIA encroachment necessary to fund the teachers required to meet the CSR requirements.

Paramount USD requests a waiver of the QEIA CSR target for kindergarten at Major Lynn Mokler ES for school years 2011–12 and 2012–13, and the establishment of alternative CSR targets of 25.0 students per class in core classes in kindergarten and grades one through three, and 25.0 students on average in core classes in grades four and five.

### **California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Paramount USD's request to increase its CSR targets for kindergarten and grades one through five at Major Lynn Mokler ES for school years 2011–12 and 2012–13.

The CDE recommends approval with the following conditions: (1) Applies only to kindergarten and grades one through five at Major Lynn Mokler ES for school years 2011–12 and 2012–13; (2) Major Lynn Mokler ES increases enrollment to 25.0 per class in core classes in kindergarten and grades one through three, and 25.0 students per class on average in core classes in grades four and five; (3) No core class in grades four and five may exceed 27 students per classroom regardless of the average classroom size; and (4) Within 30 days of approval of this waiver, Paramount USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Mokler ES Schoolsite Council and English Learner Advisory Council on January 30, 2013.

Neutral position taken by Teachers Association of Paramount, February 5, 2013.

**Local Board Approval:** February 13, 2013.

**California Department of Education  
WAIVER SUBMISSION - General**

CD Code: 1964873      Waiver Number: 22-2-2013      Active Year: 2013

Date In: 2/14/2013 12:13:42 PM

Local Education Agency: Paramount Unified School District  
Address: 15110 California Ave.  
Paramount, CA 90723

Start: 7/1/2011      End: 6/30/2012

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740(a)  
Ed Code Authority: 33050

**Ed Code or CCR to Waive:**

*Education Code 52055.740(a)* For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements:

(A) For kindergarten and grades 1-3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

(B) For self-contained classrooms in grades 4-8, inclusive, as average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006-07.

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the school site. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-containing classroom in grades 4-8, inclusive, with more than 27 pupils regardless of its average classroom size.

**Outcome Rationale:**

The Paramount Unified School District (PUSD), on behalf of Mokler School, requests a retroactive waiver (2011-12) to *Education Code 52055.740(a)*: QEIA Class Size Reduction. In 2011-12, two kindergarten classes missed the CSR target by .02 or less than one student, which placed the school in jeopardy of losing QEIA funding for 2013-14. As a result, PUSD also requests a waiver to *Education Code 5055.740(a)* for 2012-13. Approval of this waiver would establish new QEIA ratios of 25 to 1 for all of Mokler's students. English Learners comprise 48% of Mokler's population and 95% of Mokler's students qualify for the Free or Reduced Lunch Program. QEIA funding has had a dramatic impact on student learning, especially in the areas

of literacy and English language development, by providing a low student to teacher ratio and a more individualized educational program for all students, and specifically, English Learners.

Student Population: 669

City Type: Urban

Public Hearing Date: 2/13/2013

Public Hearing Advertised: The public hearing was advertised in the newspaper and posted at schools and District Office.

Local Board Approval Date: 2/13/2013

Committee/Council Reviewed By: School Site Council (SSC) and English Learner Advisory Council (ELAC)

Committee/Council Reviewed Date: 1/30/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Randy Gray

Position: Director - Educational Services

E-mail: rgray@paramount.k12.ca.us

Telephone: 562-602-6047

Fax: 562-602-8111

Bargaining Unit: Date: 02/05/2013

Name: Teachers' Association of Paramount

Representative: Deb Meyers

Title: President

Position: Neutral

Comments:

**Waiver Number:** 23-2-2013  
2014

**Period of Request:** July 1, 2012, to June 30,

Frank J. Zamboni Middle School  
6114615  
Paramount Unified School District

**Period Recommended:** July 1, 2012, to June 29, 2014  
**CDS Code:** 19 64873

**Local Educational Agency Request:**

Paramount Unified School District (USD) is an urban district located in Los Angeles County with a student population of approximately 15,929 students. Frank J. Zamboni Middle School (MS) serves 929 students in grades six through eight. Monitoring performed by the Los Angeles County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Frank J. Zamboni MS in school year 2011–12, but the district is asking for an alternative QEIA CSR target for school years 2012–13 and 2013–14. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are an average of 23.3, 23.3, and 25.0 in grades six through eight, respectively.

Paramount USD states that due to the ongoing fiscal crisis facing California public schools, the district has reached a point where it can no longer sustain the QEIA encroachment necessary to fund the teachers required to meet the CSR requirements.

Paramount USD requests a waiver of the QEIA CSR targets for grades six and seven at Frank J. Zamboni MS for school years 2012–13 and 2013–14, and the establishment of alternative CSR targets of 25.0 students per class on average in core classes in grades six and seven.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Paramount USD's request to increase its CSR targets for grades six and seven at Frank J. Zamboni MS for school years 2012–13 and 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to grades six and seven at Frank J. Zamboni MS for school years 2012–13 and 2013–14; (2) Frank J. Zamboni MS increases enrollment to 25.0 per class on average in core classes in grades six and seven; (3) No core class in grades six through eight may exceed 27 students per classroom regardless of the average classroom size; and (4) Within 30 days of approval of this waiver, Paramount USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Frank J. Zamboni MS Schoolsite Council and English Learner Advisory Council on January 29, 2013.

Neutral position taken by Teachers Association of Paramount, February 5, 2013.

**Local Board Approval:** February 13, 2013.



**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 1964873      Waiver Number: 23-2-2013      Active Year: 2013

Date In: 2/14/2013 12:32:02 PM

Local Education Agency: Paramount Unified School District  
Address: 15110 California Ave.  
Paramount, CA 90723

Start: 7/1/2012      End: 6/30/2014

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive:

*Education Code 52055.740(a)* For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements:

(A) For kindergarten and grades 1-3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

(B) For self-contained classrooms in grades 4-8, inclusive, as average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006-07.

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the school site. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-containing classroom in grades 4-8, inclusive, with more than 27 pupils regardless of its average classroom size.

Outcome Rationale:

The Paramount Unified School District on behalf of Zamboni School, requests a two year waiver (2012-13 and 2013-14) to *Education Code 52055.740(a)*: QEIA Class Size Reduction. Due to the ongoing fiscal crisis facing California public schools, the Paramount Unified School District has reached a point where it can no longer sustain the QEIA encroachment necessary to fund the teachers required to meet the QEIA CSR requirements. Approval of this waiver would establish new QEIA ratios of 25 to 1 for all Zamboni's students in core classes in grades 6-8. English Learners comprise 30% of Los Cerritos' population and 95% of Zamboni's students qualify for the Free or Reduced Lunch Program. QEIA funding has had a dramatic impact on

student learning, especially in the areas of literacy and English language development, by providing a low student to teacher ratio and a more individualized educational program for all students, and specifically, English Learners. QEIA has contributed to Zamboni's recognition by the CDE as a "School to Watch" in 2013.

Student Population: 929

City Type: Urban

Public Hearing Date: 2/13/2013

Public Hearing Advertised: The public hearing was advertised in the newspaper and posted at schools and District Office.

Local Board Approval Date: 2/13/2013

Committee/Council Reviewed By: School Site Council (SSC) and English Learner Advisory Council (ELAC)

Committee/Council Reviewed Date: 1/29/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Randy Gray

Position: Director - Educational Services

E-mail: rgray@paramount.k12.ca.us

Telephone: 562-602-6047

Fax: 562-602-8111

Bargaining Unit: Date: 02/05/2013

Name: Teachers' Association of Paramount

Representative: Deb Meyers

Title: President

Position: Neutral

Comments:

**Waiver Number:** 6-1-2013  
2014

**Period of Request:** July 1, 2012, to June 29,

2014

Perris Elementary School  
6032510  
Perris Elementary School District

**Period Recommended:** July 1, 2012, to June 29,

**CDS Code:** 33 67199

**Local Educational Agency Request:**

Perris Elementary School District (ESD) is an urban district located in Riverside County with a student population of approximately 5,816 students. Perris Elementary School (ES) serves 579 students in kindergarten and grades one through six. Monitoring performed by the Riverside County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Perris ES in school year 2011–12, but the district is asking for an alternative QEIA CSR target for school years 2012–13 and 2013–14. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 23.0, 23.0, and 25.0 in grades four through six, respectively.

Perris ESD states that the state-level cuts to revenue limit funding have resulted in an increase of the student-to-teacher ratio in all schools in the district. In addition, the district says that the general fund is currently funding nine additional teachers to meet the QEIA class size requirements. The district says that changes in enrollment could potentially result in a loss of funding at current class sizes. Further, the district says that any additional decrease in funding would adversely affect student achievement.

Perris ESD requests a waiver of the QEIA CSR targets for kindergarten and grades one through five at Perris ES for school years 2012–13 and 2013–14, and the establishment of alternative CSR targets of 25.0 students per class in core classes in kindergarten and grades one through three, and 25.0 students on average in core classes in grades four and five.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Perris ESD's request to increase its CSR targets for kindergarten and grades one through five at Perris ES for school years 2012–13 and 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to kindergarten and grades one through five at Perris ES for school years 2012–13 and 2013–14; (2) Perris ES increases enrollment to 25.0 per class in core classes in kindergarten and grades one through three, and 25.0 students per class on average in core classes in grades four and five; (3) No core class in grades four through six may exceed 27 students per classroom regardless of the average classroom size; and (4) Within 30 days of approval of this waiver, Perris ESD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Perris ES District Advisory Committee on September 5, 2012.

Neutral position taken by Perris Elementary Teachers Association, September 5, 2012.

**Local Board Approval:** December 13, 2012.

**California Department of Education  
WAIVER SUBMISSION - General**

CD Code: 3367199      Waiver Number: 6-1-2013      Active Year: 2013

Date In: 1/8/2013 4:46:15 PM

Local Education Agency: Perris Elementary School District  
Address: 143 East First St.  
Perris, CA 92570

Start: 7/1/2012      End: 6/29/2014

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: *EC 52055.740*  
Ed Code Authority: 33050

Ed Code or *CCR* to Waive: 52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements:

(A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

(B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006-07.

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

(C) For classes in English language arts, reading, mathematics, science, or history and social science courses in grades 4 to 12, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006-07.

(ii) An average of 25 pupils per classroom.]

Outcome Rationale: The District is requesting a QEIA class size target of 25 students per classroom in grades Kindergarten through Third. In grades Fourth and Fifth the CSR target in core classes at each grade level is being requested to be 25, not to exceed 27 pupils per classroom. The waiver time period being requested is July 1, 2012 through June 29, 2014. State level cuts to revenue limit funding have resulted in an increase of the student to teacher ratio in all schools in the district. Currently, all Kindergarten through Third grade non-QEIA classes have grown into a 28:1 staffing ratio. Grades 4 through 6 are as high as 32:1 the 3 QEIA schools are staffed at 20:1 in K-3 and 25:1 at 4-6 with the exception of Perris Elementary which is staffed at 23:1 for 4-5 and 25:1 at 6th. The general fund is currently funding 9 additional teachers to meet the QEIA class size requirements.

This request is a safeguard to possibly losing funding. The district has seen changes in enrollment that could potentially result in a loss of funding at the current class sizes. Any additional decreases in funding would adversely affect student achievement.

Student Population: 5830

City Type: Small

Public Hearing Date: 12/13/2012

Public Hearing Advertised: Notice at all sites and on District website.

Local Board Approval Date: 12/13/2012

Committee/Council Reviewed By: Perris Elementary, Park Avenue and Good Hope's District  
Advisory Committes

Committee/Council Reviewed Date: 9/5/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Tina Daigneault

Position: Chief Business Official

E-mail: tdaigneault@perris.k12.ca.us

Telephone: 951-657-3118 x4024

Fax: 951-940-5115

Bargaining Unit: Date: 09/05/2012

Name: Perris Elementary Teachers Association

Representative: Fran Perry

Title: President

Position: Neutral

Comments:

**Waiver Number:** 51-3-2013  
2014

**Period of Request:** July 1, 2012, to June 29,

Park Avenue Elementary School  
Perris Elementary School District

**Period Recommended:** July 1, 2012, to June 29, 2014

**CDS Code:** 33 67199 6109037

**Local Educational Agency Request:**

Perris Elementary School District (ESD) is an urban district located in Riverside County with a student population of approximately 5,816 students. Park Avenue Elementary School (ES) serves 475 students in kindergarten and grades one through six. Monitoring performed by the Riverside County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Park Avenue ES in school year 2011–12, but the district is asking for an alternative QEIA CSR target for school years 2012–13 and 2013–14. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 25.0 in grades four through six.

Perris ESD states that the state-level cuts to revenue limit funding have resulted in an increase of the student-to-teacher ratio in all schools in the district. In addition, the district says that the general fund is currently funding nine additional teachers to meet the QEIA class size requirements. The district says that changes in enrollment could potentially result in a loss of funding at current class sizes. Further, the district says that any additional decrease in funding would adversely affect student achievement.

Perris ESD requests a waiver of the QEIA CSR targets for kindergarten and grades one through three at Park Avenue ES for school years 2012–13 and 2013–14, and the establishment of alternative CSR targets of 25.0 students per class in core classes in kindergarten and grades one through three.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Perris ESD's request to increase its CSR targets for kindergarten and grades one through three at Park Avenue ES for school years 2012–13 and 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to kindergarten and grades one through three at Park Avenue ES for school years 2012–13 and 2013–14; (2) Park Avenue ES increases enrollment to 25.0 per class in core classes in kindergarten and grades one through three; (3) No core class in grades four through six may exceed 27 students per classroom regardless of the average classroom size; and (4) Within 30 days of approval of this waiver, Perris ESD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Park Avenue ES District Advisory Committee on September 5, 2012.

Neutral position taken by Perris Elementary Teachers Association, September 5, 2012.

**Local Board Approval:** December 13, 2012



**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3367199      Waiver Number: 51-3-2013      Active Year: 2013

Date In: 3/26/2013 11:51:08 AM

Local Education Agency: Perris Elementary School District  
Address: 143 East First St.  
Perris, CA 92570

Start: 7/1/2012      End: 6/29/2014

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: *EC 52055.740*  
Ed Code Authority: 33050

Ed Code or *CCR* to Waive: 52055.740.

(a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

[ (1) Meet all of the following class size requirements:

(A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

(B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006–07.

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005–06 school year, that lower average shall be used as the “average in 2006–07” for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

(C) For classes in English language arts, reading, mathematics, science, or history and social science courses in grades 4 to 12, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006–07.

(ii) An average of 25 pupils per classroom. ]

Outcome Rationale: The District is requesting a QEIA class size target for Park Elementary School of 25 students per classroom in grades Kindergarten through Third and in grades Fourth and Fifth the CSR target in core classes at each grade level is being requested to be 25, not to exceed 27 pupils per classroom. The waiver time period being requested is July 1, 2012

through June 29, 2014. State level cuts to revenue limit funding have resulted in an increase of the student to teacher ratio in all schools in the district. Currently, all Kindergarten through Third grade non-QEIA classes have grown into a 28:1 staffing ratio. Grades 4 through 6 are as high as 32:1. The QEIA schools are staffed at 20:1 in K-3 and 25:1 at 4-6 with the exception of Perris Elementary which is staffed at 23:1 for 4-5 and 25:1 at 6th. The general fund is currently funding 9 additional teachers to meet the QEIA class size requirements. This request is a safeguard to a possible loss of funding. The district has seen changes in enrollment that could potentially result in a loss of funding at the current class sizes. Any additional decreases in funding would adversely affect student achievement.

Student Population: 5830

City Type: Small

Public Hearing Date: 12/13/2012

Public Hearing Advertised: Notice at all sites and on District website.

Local Board Approval Date: 12/13/2012

Committee/Council Reviewed By: Perris Elementary, Park Avenue and Good Hope's District  
Advisory Committes

Committee/Council Reviewed Date: 9/5/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Tina Daigneault

Position: Chief Business Official

E-mail: [tdaigneault@perris.k12.ca.us](mailto:tdaigneault@perris.k12.ca.us)

Telephone: 951-657-3118

Fax:

Bargaining Unit: Date: 09/05/2012

Name: Perris Elementary Teachers Association

Representative: Fran Perry

Title: President

Position: Neutral

Comments:

**Waiver Number:** 52-3-2013  
2014

**Period of Request:** July 1, 2012, to June 29,

Good Hope Elementary School  
Perris Elementary School District

**Period Recommended:** July 1, 2012, to June 29, 2014

**CDS Code:** 33 67199 6032502

**Local Educational Agency Request:**

Perris Elementary School District (ESD) is an urban district located in Riverside County with a student population of approximately 5,816 students. Good Hope Elementary School (ES) serves 646 students in kindergarten and grades one through six. Monitoring performed by the Riverside County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were fully met by Good Hope ES in school year 2011–12, but the district is asking for an alternative QEIA CSR target for school years 2012–13 and 2013–14. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 25.0 in grades four through six.

Perris ESD states that the state-level cuts to revenue limit funding have resulted in an increase of the student-to-teacher ratio in all schools in the district. In addition, the district says that the general fund is currently funding nine additional teachers to meet the QEIA class size requirements. The district says that changes in enrollment could potentially result in a loss of funding at current class sizes. Further, the district says that any additional decrease in funding would adversely affect student achievement.

Perris ESD requests a waiver of the QEIA CSR targets for kindergarten and grades one through three at Good Hope ES for school years 2012–13 and 2013–14, and the establishment of alternative CSR targets of 25.0 students per class in core classes in kindergarten and grades one through three.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Perris ESD's request to increase its CSR targets for kindergarten and grades one through three at Good Hope ES for school years 2012–13 and 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to kindergarten and grades one through three at Good Hope ES for school years 2012–13 and 2013–14; (2) Good Hope ES increases enrollment to 25.0 per class in core classes in kindergarten and grades one through three; (3) No core class in grades four through six may exceed 27 students per classroom regardless of the average classroom size; and (4) Within 30 days of approval of this waiver, Perris ESD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Good Hope ES District Advisory Committee on September 5, 2012.

Neutral position taken by Perris Elementary Teachers Association, September 5, 2012.

**Local Board Approval:** December 13, 2012

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3367199      Waiver Number: 52-3-2013      Active Year: 2013

Date In: 3/26/2013 11:54:49 AM

Local Education Agency: Perris Elementary School District  
Address: 143 East First St.  
Perris, CA 92570

Start: 7/1/2012      End: 6/29/2014

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: *EC* 52055.740  
Ed Code Authority: 33050

Ed Code or *CCR* to Waive: 52055.740.

(a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

[ (1) Meet all of the following class size requirements:

(A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

(B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006–07.

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005–06 school year, that lower average shall be used as the “average in 2006–07” for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

(C) For classes in English language arts, reading, mathematics, science, or history and social science courses in grades 4 to 12, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006–07.

(ii) An average of 25 pupils per classroom. ]

Outcome Rationale: The District is requesting a QEIA class size target for Good Hope Elementary School of 25 students per classroom in grades Kindergarten through Third and in grades Fourth and Fifth the CSR target in core classes at each grade level is being requested to be 25, not to exceed 27 pupils per classroom. The waiver time period being requested is July 1,

2012 through June 29, 2014. State level cuts to revenue limit funding have resulted in an increase of the student to teacher ratio in all schools in the district. Currently, all Kindergarten through Third grade non-QEIA classes have grown into a 28:1 staffing ratio. Grades 4 through 6 are as high as 32:1. The QEIA schools are staffed at 20:1 in K-3 and 25:1 at 4-6 with the exception of Perris Elementary which is staffed at 23:1 for 4-5 and 25:1 at 6th. The general fund is currently funding 9 additional teachers to meet the QEIA class size requirements. This request is a safeguard to a possible loss of funding. The district has seen changes in enrollment that could potentially result in a loss of funding at the current class sizes. Any additional decreases in funding would adversely affect student achievement.

Student Population: 5830

City Type: Small

Public Hearing Date: 12/13/2012

Public Hearing Advertised: Notice at all sites and on District website.

Local Board Approval Date: 12/13/2012

Committee/Council Reviewed By: Perris Elementary, Park Avenue and Good Hope's District  
Advisory Committes

Committee/Council Reviewed Date: 9/5/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Tina Daigneault

Position: Chief Business Official

E-mail: [tdaigneault@perris.k12.ca.us](mailto:tdaigneault@perris.k12.ca.us)

Telephone: 951-657-3118

Fax:

Bargaining Unit: Date: 09/05/2012

Name: Perris Elementary Teachers Association

Representative: Fran Perry

Title: President

Position: Neutral

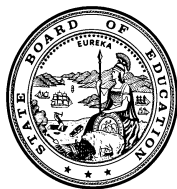
Comments:



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-25**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by three local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding Highly Qualified Teachers and/or the *Williams* case settlement requirements under the Quality Education Investment Act.

Waiver Numbers: Alum Rock Union Elementary 7-2-2013  
Alum Rock Union Elementary 9-2-2013  
Oakland Unified 37-1-2013  
Twin Rivers Unified 63-1-2013

☒ Action

☒ Consent

##### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

See Attachment 1, 3, 5, and 7 for details.

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The California Department of Education (CDE) Waiver Office has previously presented requests to waive the Highly Qualified Teachers (HQT) target and the *Williams* case settlement requirements as defined by the Quality Education Investment Act (QEIA) to the State Board of Education (SBE). All HQT and *Williams* case settlement requirement waivers previously presented have been approved by the SBE.

##### SUMMARY OF KEY ISSUES

###### Quality Education Investment Act

Per California *Education Code* (EC) Section 52055.710(c) and (d), it is the intent of the Legislature that QEIA funding accomplish the following:

- (c) Improve the quality of academic instruction and the level of pupil achievement in schools in which pupils have high levels of poverty and complex educational needs.
- (d) Develop exemplary school district and school practices that will create the working conditions and classroom learning environments that will attract and retain well qualified teachers, administrators, and other staff.



To assist local educational agencies (LEAs) in properly implementing requirements to meet statutory timelines, schools participating in the QEIA program were monitored by their county offices of education for compliance with program requirements for the first time at the end of the 2008–09 school year. At that time, QEIA schools were required to demonstrate one-third progress toward full implementation of program requirements. At the end of the 2009–10 school year, QEIA schools were required to demonstrate two-thirds progress toward full program implementation. QEIA schools were required to demonstrate full compliance with all program requirements at the end of the 2010–11 school year.

### **Highly Qualified Teachers**

California *EC* Section 52055.740(a)(3) requires, in QEIA funded schools, that by the end of the 2010–11 school year and each year after, each teacher, including intern teachers, be highly qualified in accordance with the federal No Child Left Behind Act (NCLB) of 2001.

The federal NCLB statutes require that all elementary, middle, and high school teachers assigned to teach core academic subjects be highly qualified. In California, the NCLB core academic subjects are defined as:

- English/language arts/reading (including reading intervention and California High School Exit Exam [CAHSEE] English classes)
- Mathematics (including math intervention and CAHSEE math classes)
- Biological sciences; chemistry; geosciences; and physics
- Social science (history; government; economics; and geography)
- Foreign languages (specific)
- Drama/theater; visual arts (including dance); and music

Meeting the federal requirement for HQT is determined based on the number of classes in core academic subjects taught by highly qualified teachers as reported in the California Longitudinal Pupil Achievement Data System (CALPADS).

### **Williams Case Settlement Requirements**

California *EC* Section 52055.740(b)(4) requires QEIA funded schools, by the end of the 2008–09 school year and each year thereafter, to meet all of the requirements of the settlement agreement in *Eliezer Williams, et al., vs. State of California, et al.*

These requirements include:

- Ensuring students have sufficient instructional materials.

- Ensuring school facilities pose no emergency or urgent threat to health and safety.
- Ensuring there are no teacher vacancies or misassignments.

If an LEA requests a waiver of the HQT or *Williams* case settlement requirements, the CDE reviews a range of information regarding the unique circumstances of the school and the district to formulate a recommendation to the SBE.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a),** available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the HQT targets based on statute requirements to stay in the program. Any school in the program not meeting those targets will risk the loss of future funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded).

### **ATTACHMENT(S)**

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Attachment 1: Alum Rock Union Elementary School District Request for a Quality Education Investment Act Highly Qualified Teachers Waiver 7-2-2013 (1 page)

Attachment 2: Alum Rock Union Elementary School District General Waiver Request 7-2-2013 (5 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Alum Rock Union Elementary School District Request for a Quality Education Investment Act Highly Qualified Teachers Waiver 9-2-2013 (1 page)

Attachment 4: Alum Rock Union Elementary School District General Waiver Request 9-2-2013 (6 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 5: Oakland Unified School District Request for a Quality Education Investment Act Highly Qualified Teachers Waiver 37-1-2013 (1 page)

Attachment 6: Oakland Unified School District General Waiver Request 37-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 7: Twin Rivers Unified School District Request for a Quality Education Investment Act Highly Qualified Teachers Waiver 63-1-2013 (1 page)

Attachment 8: Twin Rivers Unified School District General Waiver Request 63-1-2013 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

**Waiver Number:** 7-2-2013

**Period of Request:** July 1, 2011, to June 30, 2012  
**Period Recommended:** July 1, 2011, to June 30,

2012

Joseph George Middle School  
6068910

**CDS Code:** 43 69369

Alum Rock Union Elementary School District

**Local Educational Agency Request:**

Alum Rock Union Elementary School District (UESD) is an urban district located in Santa Clara County with a student population of approximately 12,499 students. Joseph George Middle School (MS) serves 625 students in grades six through eight. Monitoring performed by the Santa Clara County Office of Education indicates that the Highly Qualified Teacher (HQT) requirements of the Quality Education Investment Act (QEIA) were not fully met by Joseph George MS for the 2011–12 school year.

Alum Rock UESD states that the initiatives and efforts to improve student achievement have resulted in increased success. However, the district further states that these best practices in grouping and regrouping students based upon instructional need have caused challenges in matching credential requirements to student instructional needs in a departmentalized program. The district states that it made minor errors in matching assignments to credentials, resulting in one teacher not being compliant. Out of 125 core classes at Joseph George MS, the district states that 5 core classes had a teacher on staff that did not meet the HQT requirements for the position. According to the district, the Alum Rock UESD Human Resources Department has addressed the issue and can now assure 100% compliance with the HQT requirement for the 2012–13 school year.

Alum Rock UESD is requesting that the HQT requirements for teachers at Joseph George MS be waived for school year 2011–12.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Alum Rock UESD's request that HQT requirements for teachers at Joseph George MS be waived for school year 2011–12.

The CDE recommends approval with the following conditions: (1) Applies only to teachers at Joseph George MS for school year 2011–12; (2) Joseph George MS meets the HQT requirements in school year 2012–13 and all subsequent years the district receives QEIA funds; and (3) Within 30 days of approval of this waiver, Alum Rock UESD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the HQT requirements.

Reviewed by the Joseph George Middle Schoolsite Council on December 13, 2012.

Supported by Alum Rock Educators Association, December 13, 2012.

**Local Board Approval:** December 13, 2012.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 4369369

Waiver Number: 7-2-2013

Active Year: 2013

Date In: 2/7/2013 11:22:54 AM

Local Education Agency: Alum Rock Union Elementary School District  
Address: 2930 Gay Ave.  
San Jose, CA 95127

Start: 7/1/2011

End: 6/30/2012

Waiver Renewal: Y

Previous Waiver Number: 14-4-2012-W-30

Previous SBE Approval Date: 7/18/2012

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Highly Qualified Teachers  
Ed Code Section: 52055.740 (a)(3)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: The Alum Rock Union Elementary School District (ARUESD) is requesting a waiver, on behalf of George Middle School, to waive Quality Education Investment Act (QEIA) *Education Code* Section 52055.740 (a)(3). Specifically, George Middle School is requesting waiving exit from QEIA based on HQT. The term of the waiver being requested is July 1, 2011 - June 30, 2012.

Outcome Rationale: Please see attachment

Student Population: 621

City Type: Urban

Public Hearing Date: 12/13/2012

Public Hearing Advertised: Notice posted at each school; Notice posted at District Office entrances; and Website

Local Board Approval Date: 12/13/2012

Committee/Council Reviewed By: George Middle School's School Site Council

Committee/Council Reviewed Date: 12/13/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Thomas Green  
Position: Director of School Transformation  
E-mail: [thomas.green@arud.org](mailto:thomas.green@arud.org)  
Telephone: 408-928-6526  
Fax: 408-928-6416

Bargaining Unit: Date: 12/13/2012  
Name: Alum Rock Educators Association (AREA)  
Representative: Jocelyn Merz  
Title: President  
Position: Support  
Comments:

## **George Middle School**

### **Attachment to Waiver: Question #7, Desired outcome/rational**

Alum Rock Union Elementary School District (ARUESD) is located in San Jose, CA and has a population of approximately 12,499 students in grades K-8 in 26 schools. George Middle School is one of six comprehensive middle schools in ARUESD serving 625 students in grades 6-8. The student population includes 494 (80%) Socioeconomically Disadvantaged students and 220 (35%) English Language Learners. A waiver of one QEIA requirement, Highly Qualified Teacher, is requested from July 1, 2011 through June 30, 2012. The Highly Qualified Teacher goal requires that by the end of the school year, each teacher, including intern teachers, be highly qualified in accordance with the federal No Child Left Behind Act of 2001. The federal NCLB statutes require that all teachers assigned to teacher core academic subjects are highly qualified.

In 2011-2012, George offered a total of 125 core classes. In 5 core classes, the HQT was not met by one teacher.

### **Justification and Rationale for Total Core Sections without HQT**

George Middle School takes improving student achievement and complying with QEIA requirements seriously:

- George has diligently complied with all requirements set forth by New Directions the District Assistance Intervention Team (DAIT). As a DAIT District, students were leveled for instruction based on specific achievement data.
- George has strategically regrouped students to provide differentiated instruction, support and intervention based upon student achievement data. George has implemented assessment practices such as the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) and standards-based benchmark and short cycle assessments to flexibly and regularly group and regroup students based upon current specific academic need. George has fully implemented alternative core and support curricula such as *Language!* to align instruction with identified instructional need.
- George has worked closely with highly effective external support providers to restructure its assessment, placement, scheduling, grouping, instruction, and progress monitoring practices to accelerate achievement for at-risk students. Partners in School Innovation, Pivot Learning Partners, the Santa Clara County Office of Education, and the New Teacher Center have all provided support and training in meaningful use of data to inform instructional practices, and in best instructional practices.

All of these initiatives and efforts, diligently implemented, have resulted in improvement in academic achievement for all students, including numerically significant subgroups. However, these best practices in grouping and regrouping students based upon instructional need have caused challenges in matching credential requirements to student instructional needs in a departmentalized program. The Alum Rock Union Elementary School District made minor errors in matching assignments to credentials resulting in one teacher not being compliant. We have addressed this issue with the Human Resources Department, and believe that we can now ensure 100% compliance with the HQT requirement for the 2012/13 school year.

## Steps Implemented to Ensure Total Core Section Compliance with the HQT Requirement

After close consultation with the CDE staff and the Santa Clara County Office of Education QEIA monitor, the District has revamped local monitoring of compliance with QEIA requirements.

1. The local monitoring plan includes consultation with Human Resources staff and with the site principals of the QEIA schools to ensure understanding of the compliance requirements and monitoring of school compliance with all QEIA Class Size Reduction requirements.
2. To ensure internal monitoring, George administrators and Human Resources staff can directly access the student database to determine enrollment and staffing assignments.
3. The District has also provided assistance to George Middle School in navigating the complexities of master scheduling, appropriate instructional grouping, and credential requirements.

These internal controls were effectively implemented in 2011-2012 during the summer to ensure that compliance errors would not be repeated for the 2012-2013 school year. **George Middle School is fully compliant with QEIA requirements at this time.**

In 2012-2013, George receives \$556,200 QEIA funding which supports six teaching positions to lower class size, one Visual and Performing Arts (VAPA) Coach, technology integration, professional development, and parent engagement activities. The VAPA program includes elective courses in dance, art, drama, choir, drum corps, and band. QEIA funding has created opportunities for all students to experience the integration of the arts into the curriculum, which provides enrichment and motivation directly impacting student achievement. The students, parents and teachers of George Middle School and the Santa Clara County Office of Education acknowledge and support the continuation of QEIA funding as vital to the continued success of the under-served students in this large comprehensive middle school.

Student Achievement Data

Overall Student Achievement					
School	2010 Base API	2011 Base API	2012 API Growth	3 year API Growth	3 year Growth percentage
<b>George</b>	<b>706</b>	<b>738</b>	<b>725</b>	<b>19</b>	<b>2.7%</b>
Fischer	673	712	748	75	11.1%
Mathson	667	672	706	39	5.8%
Ocala	732	738	750	18	2.5%
Renaissance	827	855	871	46	5.3%
Sheppard	774	743	760	-14	-1.8%

George Middle School includes three numerically significant subgroups: Hispanic, English Language Learners, and Socioeconomically Disadvantaged students. The significant increase in the academic achievement of each subgroup as reported by the API is shown in the following charts.



## Subgroups API Scores and Growth

Hispanic or Latino					
School	2010	2011	2012	3 year API Growth	3 year Growth percentage
<b>George</b>	<b>689</b>	<b>721</b>	<b>710</b>	<b>21</b>	<b>3.0%</b>
Fischer	655	696	735	80	12.2%
Mathson	658	650	679	21	3.2%
Ocala	705	710	721	16	2.3%
Renaissance	806	838	857	51	6.3%
Sheppard	686	668	692	6	0.9%

English Language Learners					
School	2010	2011	2012	3 year API Growth	3 year Growth percentage
<b>George</b>	<b>654</b>	<b>678</b>	<b>665</b>	<b>11</b>	<b>1.9%</b>
Fischer	648	675	696	48	7.4%
Mathson	633	622	645	12	1.9%
Ocala	694	678	699	5	0.7%
Renaissance	761	779	789	28	3.7%
Sheppard	721	673	704	-17	-2.4%

Socio-Economically Disadvantaged					
School	2010	2011	2012	3 year API Growth	3 year Growth percentage
<b>George</b>	<b>686</b>	<b>738</b>	<b>725</b>	<b>39</b>	<b>5.7%</b>
Fischer	673	712	748	75	11.1%
Mathson	661	673	706	45	6.8%
Ocala	731	738	737	6	0.8%
Renaissance	827	856	871	44	5.3%
Sheppard	754	743	760	16	2.1%

George Middle School increased student achievement by 19 API points from spring 2010 to spring 2012, a 2.7% increase. Statistically significant subgroups Hispanic (21 points, 3.0%), English Language Learners (11 points, 1.9%), and Socioeconomically Disadvantaged (39 points, 5.7%). QEIA funds have played an important role in this academic achievement data.

**Waiver Number:** 9-2-2013

**Period of Request:** July 1, 2011, to June 30, 2012

**Period Recommended:** July 1, 2011, to June 30, 2012

Clyde L. Fischer Middle School

**CDS Code:** 43 69369 6046148

Alum Rock Union Elementary School District

**Local Educational Agency Request:**

Alum Rock Union Elementary School District (UESD) is an urban district located in Santa Clara County with a student population of approximately 12,499 students. Clyde L. Fischer Middle School (MS) serves 632 students in grades six through eight. Monitoring performed by the Santa Clara County Office of Education indicates that the Highly Qualified Teacher (HQT) requirements of the Quality Education Investment Act (QEIA) were not fully met by Clyde L. Fischer MS for the 2011–12 school year.

Alum Rock UESD states that the best practices in grouping and regrouping students based upon instructional need have caused challenges in matching credential requirements to student instructional needs. Out of 120 core classes at Clyde L. Fischer MS, the district states that 2 core classes had a teacher on staff that did not meet the HQT requirements for the position. According to the district, the Alum Rock UESD Human Resources Department has addressed the issue and can now assure compliance with the HQT requirement for the 2012–13 school year.

Alum Rock UESD is requesting that the HQT requirements for teachers at Clyde L. Fischer MS be waived for school year 2011–12.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Alum Rock UESD's request that HQT requirements for teachers at Clyde L. Fischer MS be waived for school year 2011–12.

The CDE recommends approval with the following conditions: (1) Applies only to teachers at Clyde L. Fischer MS for school year 2011–12; (2) Clyde L. Fischer MS meets the HQT requirements in school year 2012–13 and all subsequent years the district receives QEIA funds; and (3) Within 30 days of approval of this waiver, Alum Rock UESD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the HQT requirements.

Reviewed by the Clyde L. Fischer Schoolsite Council on December 13, 2012.

Supported by Alum Rock Educators Association, December 13, 2012.

**Local Board Approval:** December 13, 2012.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 4369369

Waiver Number: 9-2-2013

Active Year: 2013

Date In: 2/7/2013 2:40:38 PM

Local Education Agency: Alum Rock Union Elementary School District  
Address: 2930 Gay Ave.  
San Jose, CA 95127

Start: 7/1/2011

End: 6/30/2012

Waiver Renewal:

Previous Waiver Number:

Previous SBE Approval Date: 7/18/2012

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Highly Qualified Teachers  
Ed Code Section: 52055.740 (a)(3)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: The Alum Rock Union Elementary School District (ARUESD) is requesting a waiver, on behalf of Fischer Middle School, to waive Quality Education Investment Act (QEIA), *Education Code* Section 52055.740 (a)(3). Specifically, Fischer Middle School is requesting waiving exit from QEIA based on HQT. The term of the waiver being requested is July 1, 2011 - June 30, 2012.

Outcome Rationale: Please see attachment

Student Population: 632

City Type: Urban

Public Hearing Date: 12/13/2012

Public Hearing Advertised: Notice posted at each school; Notice posted at District Office entrances; and on Website

Local Board Approval Date: 12/13/2012

Committee/Council Reviewed By: Fischer Middle School's SSC

Committee/Council Reviewed Date: 12/13/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Thomas Green  
Position: Director of School Transformation  
E-mail: [thomas.green@arud.org](mailto:thomas.green@arud.org)  
Telephone: 408-928-6526  
Fax: 408-928-6416

Bargaining Unit: Date: 12/13/2012  
Name: Alum Rock Educators Association (AREA)  
Representative: Jocelyn Merz  
Title: President  
Position: Support  
Comments:

## Fischer Middle School

### Attachment to Waiver: Question #7, Desired outcome/rational

Alum Rock Union Elementary School District (ARUESD) is located in San Jose, CA and serves approximately 12,499 students in grades K-8 in 26 schools. Fischer Middle School is one of six comprehensive middle schools in District and serves 632 students in grades 6-8. The student population includes 520 (82%) Socioeconomically Disadvantaged students and 259 (41%) English Language Learners. A waiver of two QEIA requirements (1) the Rule of 27 and (2) Highly Qualified Teacher. The Rule of 27 requires that all sections of the core instructional program (language arts, math, science and social studies) have no more than 27 students in any given section. The Highly Qualified Teacher goal requires that by the end of the school year, each teacher, including intern teachers, be highly qualified in accordance with the federal No Child Left Behind Act of 2001. The federal NCLB statutes require that all teachers assigned to teach core academic subjects are highly qualified.

In 2011-2012, Fischer offered 120 core classes. In 2 classes, the number of students exceeded the Rule of 27 by one student between October 12 to October 20. The HQT was not met for 2 classes by one teacher. However, it is important to note that the school has met or exceeded all other requirements of the statute and demonstrated significant overall academic achievement and for all numerically significant subgroups. Specifically, Fischer's school-wide Academic Performance Index (API) increased by 75 points (%) between 2010 and 2012.

Overall Student Achievement					
School	2010 Base API	2011 Base API	2012 API Growth	3 year API Growth	3 year Growth percentage
<b>Fischer</b>	<b>673</b>	<b>712</b>	<b>748</b>	<b>75</b>	<b>11.1%</b>
George	706	738	725	19	2.7%
Mathson	667	672	706	39	5.8%
Ocala	732	737	750	18	2.5%
Renaissance	825	856	871	46	5.3%
Sheppard	774	743	760	-14	-1.8%

Fischer Middle School includes three numerically significant subgroups: Hispanic, English Language Learners, and Socioeconomically Disadvantaged students. The significant increase in the academic achievement of each subgroup as reported by the API is shown in the following charts.

### Subgroups API Scores and Growth

Hispanic or Latino					
School	2010 Base API	2011 Base API	2012 API Growth	Growth to 2012	Percent of Growth
<b>Fischer</b>	<b>655</b>	<b>696</b>	<b>735</b>	<b>80</b>	<b>12.2%</b>
George	689	721	710	21	3.0%
Mathson	658	650	679	21	3.2%
Ocala	705	710	721	16	2.3%
Renaissance	806	838	857	51	6.3%
Sheppard	686	668	692	6	0.9%

English Language Learners					
School	2010 Base API	2011 Base API	2012 API Growth	Growth to 2012	Percent of Growth
<b>Fischer</b>	<b>648</b>	<b>675</b>	<b>696</b>	<b>48</b>	<b>7.4%</b>
George	654	678	665	11	1.7%
Mathson	633	622	645	12	1.9%
Ocala	694	678	699	5	0.7%
Renaissance	761	779	789	28	3.7%
Sheppard	721	673	704	-17	-2.4%

Socio-Economically Disadvantaged					
School	2010 Base API	2011 Base API	2012 API Growth	Growth to 2012	Percent of Growth
<b>Fischer</b>	<b>673</b>	<b>712</b>	<b>748</b>	<b>75</b>	<b>11.1%</b>
George	686	738	725	39	5.7%
Mathson	661	673	706	45	6.8%
Ocala	731	738	737	6	0.8%
Renaissance	827	856	871	44	5.3%
Sheppard	754	743	760	16	2.1%

Fischer Middle School increased student achievement by 75 API points from spring 2010 to spring 2012, an 11.1% increase. Statistically significant subgroups Hispanic (80 points 12.2%), English Language Learners (48 points, 7.4%), and Socioeconomically Disadvantaged (75 points, 11.1%) all increased at rates comparable to the overall school. The school made

significant progress in narrowing the achievement gap for these students. QEIA funds have played an important role in this remarkable academic achievement data.

### **Justification and Rationale for Total Core Sections above 27 and HQT**

There are several reasons that Fischer did not meet the Rule of 27 and HQT.

- Fischer has diligently complied with all requirements set forth by New Directions the District Assistance Intervention Team (DAIT). As a DAIT District, students were leveled for instruction based on specific achievement data.
- Fischer has strategically regrouped students to provide differentiated instruction, support and intervention based upon student achievement data. Fischer has implemented assessment practices such as the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) and standards-based benchmark and short cycle assessments to flexibly and regularly group and regroup students based upon current specific academic need. Fischer has fully implemented alternative core and support curricula such as *Language!* to align instruction with identified instructional need.
- Fischer has worked closely with highly effective external support providers to restructure its assessment, placement, scheduling, grouping, instruction, and progress monitoring practices to accelerate achievement for at-risk students. Partners in School Innovation, Pivot Learning Partners, the Santa Clara County Office of Education, and the New Teacher Center have all provided support and training in meaningful use of data to inform instructional practices, and in best instructional practices.
- Fischer has been significantly impacted by a high level of student mobility. During 2010-11, Fischer had 64 students withdrawn and 71 students enter after the school year started. Students leaving and new students arriving presents additional challenges in constantly adjusting instructional groups. While the school was able to place some students in other middle schools to maintain the Rule of 27 and CSR ratio, this was not always possible. The closest middle school to Fischer is not within walking distance and some parents could not provide transportation.
- These instructional grouping practices also created challenges in monitoring Highly Qualified Teacher status for both site and Human Resources staff.

All of these initiatives and efforts, diligently implemented, have resulted in significant improvement in achievement for all students, including the significant subgroups. However, these best practices in grouping and regrouping students based upon instructional need have caused regular and ongoing difficulty in complying with the Rule of 27. Grouping at-risk students for effective intervention and support may require smaller class sizes, which then create pressure for larger class sizes for students currently meeting or exceeding grade level standards. This practice within the context of a departmentalized program with a master schedule of 120 core sections caused the previously identified classes to exceed the QEIA Rule of 27, in addition to the high student mobility and the lack of transfer options previously noted, in a very small number of sections, and caused a very small number of HQT violations.



### **Steps Implemented to Ensure Total Core Section Compliance with the Rule of 27 and HQT**

After close consultation with the CDE staff and the Santa Clara County Office of Education QEIA monitor, Alum Rock Union Elementary School District has revamped local monitoring of compliance with QEIA requirements.

1. The local monitoring plan includes monthly meetings with the site principals of the QEIA schools to ensure understanding of the compliance requirements and daily monitoring of school compliance with all QEIA Class Size Reduction requirements.
2. To ensure internal monitoring, Fischer administrative and support staff can now directly access the new student database to determine the projected impact on class size for the entire year, if an additional student is added to any core section.
3. The District has also provided support for Fischer Middle School in navigating the complexities of master scheduling, appropriate instructional grouping, and credential requirements.
4. As part of the internal control, Fischer has changed the registration procedures for students entering after the start of the new school year. Upon enrollment, the school verifies that space is available and notifies parents if their child must be placed at another school. If a transfer is necessary, staff works with parents on transportation options such as busing or carpool availability. Fischer also maintains a database of students wanting to return when an opening occurs.
5. In 2011-2012, the school opened an additional classroom which provides one additional, multi-subject teacher to allow more flexibility in the master schedule and to provide space for new students. Fischer shares its campus with another smaller district middle school, Renaissance Academy, and every available space is utilized. The new classroom was created through a collaborative effort to relocate the Student Broadcasting and one core classroom into a large portable. This arrangement effectively provides additional space for 5 core sections. The arrangement will continue in future years.
6. HQT requirements were reviewed with site and Human Resources staff to ensure compliance.

These extensive internal controls were effectively implemented in 2011-2012, and continue. **Fischer Middle School is fully compliant with QEIA requirements at this time.** The basis for this waiver request was known at the time of our 2010-2011 waiver request, but CDE staff required that we address these waivers for a single year.

In 2012-2013, Fischer receives \$575,100 QEIA funding which supported five teaching positions, professional development, technology integration and opportunities for students to participate in extensive after-school interventions and Saturday Academies. The students, parents and teachers of Fischer Middle School and the Santa Clara County Office of Education acknowledge and support the continuation of QEIA funding as vital to the continued success of the under-served students in this large comprehensive middle school.

**Waiver Number:** 37-1-2013

**Period of Request:** July 1, 2011, to June 30, 2012

**Period Recommended:** July 1, 2011, to June 30, 2012

Brookfield Elementary School  
Oakland Unified School District

**CDS Code:** 01 61259 6001663

**Local Educational Agency Request:**

Oakland Unified School District (USD) is an urban district located in Alameda County with a student population of approximately 46,472 students. Brookfield Elementary School (ES) serves 385 students in kindergarten and grades one through five. Monitoring performed by the Alameda County Office of Education indicates that the Highly Qualified Teacher (HQT) requirements of the Quality Education Investment Act (QEIA) were not fully met by Brookfield ES for the 2011–12 school year.

Oakland USD states that for a brief period of time in school year 2011–12 (from 8/29/2011 to 9/30/2011), Brookfield ES had a teacher on staff that did not meet the HQT requirements for the position. The district further states that the master schedule erroneously listed the position as a bilingual assignment; however, the position was not bilingual. In addition, the district stated that when this error was discovered, the teacher was relocated to another site and was replaced by a teacher that fulfilled HQT requirements. The district stated that it acted within its contractual guidelines to move a teacher according to the Oakland Education Association contract, and within fewer than 30 working days from the start of the position.

Oakland USD is requesting that the HQT requirements for teachers at Brookfield ES be waived for school year 2011–12.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Oakland USD's request that HQT requirements for teachers at Brookfield ES be waived for school year 2011–12.

The CDE recommends approval with the following conditions: (1) Applies only to teachers at Brookfield ES for school year 2011–12; (2) Brookfield ES meets the HQT requirements in school year 2012–13 and all subsequent years the district receives QEIA funds; and (3) Within 30 days of approval of this waiver, Oakland USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the HQT requirements.

Reviewed by the QEIA Leadership Advisory Committee with no objection on September 27, 2012.

Supported by Oakland Education Association, December 21, 2012.

**Local Board Approval:** January 9, 2013

**California Department of Education  
WAIVER SUBMISSION - General**

CD Code: 0161259

Waiver Number: 37-1-2013

Active Year: 2013

Date In: 1/10/2013 1:05:31 PM

Local Education Agency: Oakland Unified School District  
Address: 1025 Second Ave.  
Oakland, CA 94606

Start: 7/1/2011

End: 6/30/2012

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Highly Qualified Teachers  
Ed Code Section: 52055.740(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(3) Ensure that each teacher in the school, including intern teachers, shall be highly qualified in accordance with the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

Outcome Rationale: QEIA requires that all teachers on a campus meet HQT requirements. For a brief period of time in 2011-12 (from 8/29/2011 to 9/30/2011), Brookfield Elementary School had a teacher on staff that did not meet the HQT requirements for her position. The master schedule erroneously listed the position as a bilingual assignment; however the position was not bilingual. When this error was discovered, the teacher was relocated to another site and replaced by a teacher that fulfilled HQT requirements. The District acted within its contractual guidelines to move a teacher according to the Oakland Education Association contract, and within fewer than 30 working days from the start of the position.

Student Population: 385

City Type: Urban

Public Hearing Date: 1/9/2013

Public Hearing Advertised: The public hearing was advertised via the District Board of Education online system.

Local Board Approval Date: 1/9/2013

Committee/Council Reviewed By: QEIA Leadership Advisory Committee  
Committee/Council Reviewed Date: 1/8/2013

Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. David Montes de Oca  
Position: Executive Director  
E-mail: david.montes@ousd.k12.ca.us  
Telephone: 510-336-7500  
Fax:

Bargaining Unit: Date: 12/21/2012  
Name: Oakland Education Association  
Representative: Trish Gorham  
Title: President  
Position: Support  
Comments:

**Waiver Number:** 63-1-2013

**Period of Request:** July 1, 2012, to June 30, 2013

**Period Recommended:** July 1, 2012, to June 30, 2013

Oakdale Elementary School

**CDS Code:** 34 76505 6033559

Twin Rivers Unified School District

### **Local Educational Agency Request:**

Twin Rivers Unified School District (USD) is an urban district located in Sacramento County with a student population of approximately 31,637 students. Oakdale Elementary School (ES) serves 500 students in kindergarten and grades one through eight. Monitoring performed by the Sacramento County Office of Education indicates that the Highly Qualified Teacher (HQT) requirements of the Quality Education Investment Act (QEIA) were fully met by Oakdale ES for the 2011–12 school year.

Twin Rivers USD states that one teacher at Oakdale ES is not highly qualified, according to the No Child Left Behind Act (NCLB), in grade 7 math and English. The district further states that the teacher has supplemental authorizations in math and English and will be NCLB compliant by the end of school year 2012–13. In addition, the district states that it was unable to find an HQT replacement and that replacing the teacher now would damage the program as the teacher has built great relationships at Oakdale ES.

Twin Rivers USD requests that the HQT requirements for teachers at Oakdale ES be waived for school year 2012–13.

### **California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Twin Rivers USD's request that the HQT requirements for teachers at Oakdale ES be waived for school year 2012–13.

The CDE recommends approval with the following conditions: (1) Applies only to teachers at Oakdale ES for school year 2012–13; (2) Oakdale ES meets the HQT requirements in school year 2013–14 and all subsequent years the district receives QEIA funds; and (3) Within 30 days of approval of this waiver, Twin Rivers USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the HQT requirements.

Reviewed by the site English Language Acquisition Committee (ELAC), Site Leadership Team, and the Oakdale Elementary Schoolsite Council on November 26, 2012.

Supported by Twin Rivers United Educators, November 30, 2012.

**Local Board Approval:** December 11, 2012.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3476505

Waiver Number: 63-1-2013

Active Year: 2013

Date In: 1/15/2013 8:23:19 AM

Local Education Agency: Twin Rivers Unified School District  
Address: 5115 Dudley Blvd.  
McClellan, CA 95652

Start: 7/1/2012

End: 6/30/2013

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Highly Qualified Teachers  
Ed Code Section: 52055.740 (a) (3)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

[(3) Ensure that each teacher in the school, including intern teachers, shall be highly qualified in accordance with the federal No Child Left Behind Act of 2001 (20 U.S.C. SEC. 6301 et seq.).]

Outcome Rationale: Twin Rivers Unified School District is an urban school district in Sacramento County. Oakdale Elementary was formerly a K-6 site that converted into a K-7 in 2010/2011 school year and then to a K-8 in 2011/2012 in order to meet the needs of the families in the community. In 2012/2013 Oakdale serves 509 students. Twin Rivers Unified School District has a total population of 26,605 students.

Oakdale is committed to providing student programs aimed at supporting and enhancing student achievement which is why they developed a master schedule for the 7th and 8th graders that is built upon student needs and teacher strengths. The strategic approach allowed them to provide a breadth of courses taught by fully credentialed teachers; however, one of the teachers is not Highly Qualified according to No Child Left Behind in Grade 7 Math or English 7. Because the teacher already has supplemental authorizations in Math and English she is on the path to becoming NCLB compliant via completion of coursework. She only needs 2 semester units in English and 12 in Math. The District is fully prepared to support the teacher financially with the requirements and she intends to be 100% compliant in English before the end of the 2012/2013 school year and plans to resolve the issue for Math in 2013/2014. The District was unable to find a Highly Qualified Teacher replacement and is requesting a one-year waiver for this requirement for the one teacher. Replacing the teacher would damage the program. This teacher is being very effective with students in her instruction and is keeping up with achieving results based on district assessments. The teacher has build great relationships

with students, tutors before and after school, has become part of the in-school mentor program and has

become an essential member of making the 7th/8th grade team of six at Oakdale School. In the past, all Oakdale staff has met or exceeded all other requirements under QEIA such as Professional Development hours for certificated and classified staff, average years of teaching experience, and highly qualified teachers per the guidelines established by the grant.

Student Population: 500

City Type: Urban

Public Hearing Date: 12/11/2012

Public Hearing Advertised: Notices posted at each school site, Twin Rivers United Educators Association office, three different places in District Office

Local Board Approval Date: 12/11/2012

Committee/Council Reviewed By: The site ELAC, Site Leadership Team and School Site Councils were all informed of the waiver

Committee/Council Reviewed Date: 11/26/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Layle Bojanski

Position: Senior Human Resources Analyst

E-mail: Layle.Bojanski@twinriversusd.org

Telephone: 916-566-1737

Fax:

Bargaining Unit: Date: 11/30/2012

Name: Twin Rivers United Educators

Representative: John Ennis, Jr.

Title: President

Position: Support

Comments:

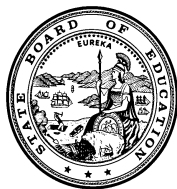




# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-26**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by **Los Angeles Unified School District** to waive California *Education Code* Section 52055.750(a)(9) regarding the fund expenditure requirements of the Quality Education Investment Act in order to allow funds from San Fernando Middle School to follow identified students who transferred to San Fernando Institute of Applied Media to ensure that they will not lose the benefits of the Quality Education Investment Act.

Waiver Number: 26-2-2013

☒ **Action**

☐ **Consent**

##### RECOMMENDATION

☐ Approval ☐ Approval with conditions ☒ Denial

The California Department of Education (CDE) recommends denial because its approval would not adequately address the educational needs of pupils as described in California *Education Code (EC)* Section 33051(a)(1).

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The Los Angeles Unified School District (USD) submitted a waiver for the September 2011 State Board of Education (SBE) meeting to request that Quality Education Investment Act (QEIA) funds follow approximately 400 students transferring from San Fernando Middle School (MS) to San Fernando Institute of Applied Learning (SFIAL), and approximately 430 students transferring from Abraham Lincoln Senior High School (SHS) to Leadership in Entertainment and Media Arts (LEMA). Los Angeles USD stated that all students transferring to either SFIAL or LEMA were already generating QEIA funding for San Fernando MS and Abraham Lincoln SHS, as these new schools were housed on the same campus as their respective schools of origin. The motion failed on this waiver and the waiver was placed on the November 2011 SBE agenda. At the November SBE meeting, the motion failed again and, according to California *Education Code (EC)* Section 33052(a), the waiver was deemed approved for one year (December 1, 2011, to November 30, 2012).

The current waiver request seeks to extend the term of the waiver; however, it is only for San Fernando MS. Abraham Lincoln SHS was terminated from the QEIA program, effective June 30, 2012, for not meeting API program requirements.

## SUMMARY OF KEY ISSUES

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Los Angeles USD is located in Los Angeles County with a student population of approximately 662,140 students. San Fernando MS was chosen to participate in the QEIA program in 2006–07 and had a population of approximately 1,659 students. Today San Fernando MS serves 1,436 students. San Fernando MS was granted a waiver for one year at the November 2011 SBE meeting, allowing QEIA money to follow the students that transferred to SFiAL. Los Angeles USD applied for a separate County-District-School (CDS) code for the new school in August 2012, and changed the school's name to San Fernando Institute of Applied Media (SFiAM). Monitoring performed by the Los Angeles County Office of Education indicates that all QEIA program requirements in 2011–2012 were fully met by San Fernando MS, which also included SFiAL.

Los Angeles USD states that SFiAM continues to serve the same student body and the same attendance area as the QEIA-funded school, San Fernando MS. However, when SFiAL received the waiver initially, it operated as a school within a school. It has since established itself as a new school, separate from the school that received the original QEIA grant.

Los Angeles USD requests that QEIA funds from San Fernando MS continue to follow the students to a small autonomous school, SFiAM (CDS code 19 64733 0125971), located on the same campus site.

The CDE recommends the SBE deny this waiver and finds that pursuant to *EC* Section 33051(a)(1), its approval would not adequately address the educational needs of pupils. Allowing new schools to enter the program was not the original intent of QEIA.

The QEIA Program was designed to be a school reform initiative not an individual student intervention. QEIA program requirements preclude new schools from participating in the program for two reasons. The first is the fact that a large number of schools that originally applied for participation were excluded from the program due to funding limitations. More importantly, the program has specific timelines for participation and must meet targets in several areas, including student academic growth, teacher experience ratio, and class size adjustments. Adding schools at this late date compacts that timeline and limits the ability of the new schools to demonstrate success in the program. Schools that do not meet program requirements stand to lose future QEIA funding, so these new schools would only benefit from QEIA participation for a short time if they are unable to successfully implement the program within the truncated timeline.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a), available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.**

**Authority for Waiver:** *EC* Section 33050

**Period of request:** July 1, 2013, to June 30, 2015

**Local board approval date(s):** February 12, 2013

**Public hearing held on date(s):** February 12, 2013

**Bargaining unit(s) consulted on date(s):** February 12, 2013

**Name of bargaining unit/representative(s) consulted:** United Teachers Los Angeles (UTLA), Gregg Solkovits, Secondary Vice President

**Position of bargaining unit(s) (choose only one):**

☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate): None

**Public hearing advertised by (choose one or more):**

☒ posting in a newspaper ☐ posting at each school ☐ other (specify)

**Advisory committee(s) consulted:** San Fernando Institute of Applied Media  
Schoolsite Council

**Objections raised (choose one):** ☒ None ☐ Objections are as follows:

**Date(s) consulted:** February 12, 2013

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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Denial of this waiver will disallow QEIA funds from being distributed to the SFiAM. The QEIA statute calls for any undistributed annual QEIA funding be redistributed to other schools in the program (no new schools are funded).

### **ATTACHMENTS**

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Attachment 1: Los Angeles Unified School District General Waiver Request 26-2-2013  
(2 Pages) (Original waiver request is signed and on file in the Waiver  
Office.)

<b>California Department of Education</b> <b>WAIVER SUBMISSION - General</b>
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CD Code: 1964733      Waiver Number: 26-2-2013      Active Year: 2013

Date In: 2/14/2013 1:41:57 PM

Local Education Agency: Los Angeles Unified School District  
Address: 333 South Beaudry Ave.  
Los Angeles, CA 90017

Start: 7/1/2013      End: 6/30/2015

Waiver Renewal: Y  
Previous Waiver Number: 71-10-2010-W-15      Previous SBE Approval Date: 11/29/2011

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Money to Follow Identified Students  
Ed Code Section: 52055.750(a)(9)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: Ensure that the funds received on behalf of funded schools are expended [on that school], except that during the first partial year of funding districts may use funding under this article for facilities necessary to meet the class size reduction requirements of this article, if all funds are spent on funded schools within the district.

Outcome Rationale: This waiver is to request the funds from a QEIA school, San Fernando MS, continue to follow the students to a small autonomous school that opened in 2010-2011 on the same campus site, San Fernando Institute of Applied Media (SFiam). This school received its own CDS code for the 2012-2013 school year and received a one year waiver for QEIA funds in November of 2011 from the State Board of Education. SFiam continues to serve the same student body and the same attendance area of the QEIA school (San Fernando MS). Without this continued waiver, students who choose to transfer to SFiam from San Fernando MS will stand to lose funds needed to support student achievement, which is the intent of the QEIA program.

Student Population: 425

City Type: Urban

Public Hearing Date: 2/12/2013  
Public Hearing Advertised: Notice in a newspaper

Local Board Approval Date: 2/12/2013

Committee/Council Reviewed By: San Fernando Institute of Applied Media School Site Council  
Committee/Council Reviewed Date: 2/12/2013  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Rachel Bonkovsky  
Position: Exec Director-Intensive Support & Intervention  
E-mail: rachel.bonkovsky@lausd.net  
Telephone: 213-241-7000  
Fax: 213-241-4710

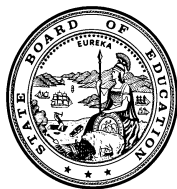
Bargaining Unit:  
Date: 02/12/2013  
Name: United Teachers Los Angeles (UTLA)  
Representative: Gregg Solkovits  
Title: Secondary Vice President  
Position: Support  
Comments:



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-27**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

SUBJECT	
<p>Request by two local educational agencies to waive portions of California <i>Education Code</i> Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act.</p> <p>Waiver Numbers: Alum Rock Union Elementary 8-2-2013 Lynwood Unified 23-3-2013</p>	<p><input checked="" type="checkbox"/> Action</p> <p><input type="checkbox"/> Consent</p>

#### RECOMMENDATION

☐ Approval ☐ Approval with conditions ☒ Denial

The California Department of Education (CDE) recommends denial of this waiver request because its approval would not adequately address the educational needs of pupils per California *Education Code* (EC) Section 33051(a)(1). If CDE's recommendation is approved and the waiver is denied, termination is effective as of June 30, 2013. The school is receiving QEIA funds for 2012–13 and is not obligated to return 2012–13 funds if the funds are expended by June 30, 2013.

See Attachment 1 and 3 for details.

#### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The CDE Waiver Office has previously presented requests to waive the class size reduction (CSR) target as defined by the Quality Education Investment Act (QEIA) to the State Board of Education (SBE). Over 90 percent of CSR waiver requests previously presented have requested adjusted class size averages of 25.0 or lower, and have indicated a commitment to meeting that target for the life of the grant; because of the current fiscal climate, these have been approved by the SBE. A small number of CSR waiver requests have proposed CSR targets above 25.0; these have been denied. However, it is noted that QEIA is supplemental funding. Therefore, the CDE will continue to weigh QEIA CSR in the context of fiscal changes. If class sizes are generally decreased in the coming year, the CDE would expect proportional decreases in QEIA class sizes.



## **SUMMARY OF KEY ISSUES**

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### **Class Size Reduction**

Schools participating in the QEIA program were monitored by their county offices of education for compliance with program requirements for the first time at the end of the 2008–09 school year. At that time, local educational agencies (LEAs) were required to demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year. QEIA schools were required to demonstrate full compliance with all program requirements at the end of the 2010–11 school year.

QEIA schools are required to reduce class sizes by 5 students compared to class sizes in the base year (either 2005–06 or 2006–07), or to an average of 25 students per classroom, whichever is lower, with no more than 27 students per classroom regardless of the average classroom size. The calculation is done by grade level, as each grade level has a target average class size based on QEIA CSR rules. For small schools with a single classroom at each grade level, some grade level targets may be very low. If, for example, a school had a single grade four classroom of 15 students in 2005–06, the school's target QEIA class size for grade four is 10 students. Absent a waiver, an unusually low grade level target may result in a greater number of combination classes at the school, or very small classes at the grade level, which is prohibitively costly and may result in withdrawal or termination from the program.

QEIA schools are required to not increase any other (non-core) class sizes in the school above the size used during the 2005–06 school year.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC 33051(a)*, available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.**

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the CSR targets based on statute requirements to stay in the program. Any school in the program not meeting those targets will risk the loss of future funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded).

### **ATTACHMENT(S)**

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Attachment 1: Alum Rock Union Elementary School District Request 8-2-2013 for a Quality Education Investment Act Class Size Reduction Waiver (1 page)

Attachment 2: Alum Rock Union Elementary School District General Waiver Request 8-

2-2013 (6 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Lynwood Unified School District Request 23-3-2013 for a Quality Education Investment Act Class Size Reduction Waiver (2 pages)

Attachment 4: Lynwood Unified School District General Waiver Request 23-3-2013 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

**Waiver Number:** 8-2-2013  
2012

**Period of Request:** July 1, 2011, to June 30,

Clyde L. Fischer Middle School  
6046148  
Alum Rock Union Elementary School District

**Period Recommended:** Denial  
**CDS Code:** 43 69369

**Local Educational Agency Request:**

Alum Rock Union Elementary School District (UESD) is an urban district located in Santa Clara County with a student population of approximately 12,499 students. Clyde L. Fischer Middle School (MS) serves 632 students in grades six through eight. Monitoring performed by the Santa Clara County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were not fully met by Clyde L. Fischer MS in two grade eight classes that exceeded the QEIA 27-student cap per classroom requirement in school year 2011–12. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 25.0 in grades six through eight.

Alum Rock UESD states that Clyde L. Fischer MS initiatives and much effort has resulted in significant improvement in the achievement for all students. However, the district states that best practices in grouping and regrouping students based upon instructional need have caused ongoing difficulty in complying with the QEIA 27-student cap per classroom requirement. In addition, grouping at-risk students for effective intervention and support may require smaller class sizes, which then create pressure for larger class sizes for students currently meeting or exceeding grade level standards. Furthermore, the district states that this practice, within the context of a departmentalized program with a master schedule of 120 core sections, caused the previously identified classes to exceed the QEIA 27-student cap per classroom requirement. High student mobility and the lack of transfer options in a very small number of sections further complicated the situation.

Alum Rock UESD requests a waiver for exceeding the QEIA 27-student cap per core classroom requirement for two grade eight classes at Clyde L. Fischer MS for school year 2011–12.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) recommends denial of Alum Rock UESD's request to waive the QEIA 27-student cap per core classroom CSR requirement for grade eight at Clyde L. Fischer MS for school year 2011–12. The State Board of Education previously approved a waiver, 13-4-2012-W-30, on July 18, 2012, that granted Clyde L. Fischer MS a waiver for exceeding the QEIA 27-student cap and the grade eight QEIA CSR target by 1.0 for school year 2010–11. The waiver was approved with the condition that Clyde L. Fischer would meet previously established QEIA CSR targets beginning in 2011–12 and going forward. Because this condition was not met, CDE recommends denial.

Reviewed by Clyde L. Fischer MS Schoolsite Council on December 13, 2012.

Supported by Alum Rock Educators Association, December 13, 2012.

**Local Board Approval:** December 13, 2012.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 4369369      Waiver Number: 8-2-2013      Active Year: 2013

Date In: 2/7/2013 2:13:42 PM

Local Education Agency: Alum Rock Union Elementary School District  
Address: 2930 Gay Ave.  
San Jose, CA 95127

Start: 7/1/2011      End: 6/30/2012

Waiver Renewal: Y  
Previous Waiver Number: 13-4-2012-W-30      Previous SBE Approval Date: 7/18/2012

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Rule of 27  
Ed Code Section: 52055.740 (a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: The Alum Rock Union Elementary School District (ARUESD) is requesting a waiver, on behalf of Fischer Middle School, to waive Quality Education Investment Act (QEIA), *Education Code* Section 52055.740 (a)(1). Specifically, Fischer Middle School is requesting waiving exit from QEIA based on the Rule of 27.

Outcome Rationale: Please see attachment

Student Population: 632

City Type: Urban

Public Hearing Date: 12/13/2012  
Public Hearing Advertised: Notice posted at each school; Notice posted at District Office entrances; and on Website

Local Board Approval Date: 12/13/2012

Committee/Council Reviewed By: Fischer Middle School's SSC  
Committee/Council Reviewed Date: 12/13/2012  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Thomas Green  
Position: Director of School Transformation  
E-mail: [thomas.green@arud.org](mailto:thomas.green@arud.org)  
Telephone: 408-928-6526  
Fax: 408-928-6416

Bargaining Unit: Date: 12/13/2012  
Name: Alum Rock Educators Association (AREA)  
Representative: Jocelyn Merz  
Title: President  
Position: Support  
Comments:

## Fischer Middle School

### Attachment to Waiver: Question #7, Desired outcome/rational

Alum Rock Union Elementary School District (ARUESD) is located in San Jose, CA and serves approximately 12,499 students in grades K-8 in 26 schools. Fischer Middle School is one of six comprehensive middle schools in District and serves 632 students in grades 6-8. The student population includes 520 (82%) Socioeconomically Disadvantaged students and 259 (41%) English Language Learners. A waiver of two QEIA requirements (1) the Rule of 27 and (2) Highly Qualified Teacher. The Rule of 27 requires that all sections of the core instructional program (language arts, math, science and social studies) have no more than 27 students in any given section. The Highly Qualified Teacher goal requires that by the end of the school year, each teacher, including intern teachers, be highly qualified in accordance with the federal No Child Left Behind Act of 2001. The federal NCLB statutes require that all teachers assigned to teach core academic subjects are highly qualified.

In 2011-2012, Fischer offered 120 core classes. In 2 classes, the number of students exceeded the Rule of 27 by one student between October 12 to October 20. The HQT was not met for 2 classes by one teacher. However, it is important to note that the school has met or exceeded all other requirements of the statute and demonstrated significant overall academic achievement and for all numerically significant subgroups. Specifically, Fischer's school-wide Academic Performance Index (API) increased by 75 points (%) between 2010 and 2012.

Overall Student Achievement					
School	2010 Base API	2011 Base API	2012 API Growth	3 year API Growth	3 year Growth percentage
<b>Fischer</b>	<b>673</b>	<b>712</b>	<b>748</b>	<b>75</b>	<b>11.1%</b>
George	706	738	725	19	2.7%
Mathson	667	672	706	39	5.8%
Ocala	732	737	750	18	2.5%
Renaissance	825	856	871	46	5.3%
Sheppard	774	743	760	-14	-1.8%

Fischer Middle School includes three numerically significant subgroups: Hispanic, English Language Learners, and Socioeconomically Disadvantaged students. The significant increase in the academic achievement of each subgroup as reported by the API is shown in the following charts.

### Subgroups API Scores and Growth

Hispanic or Latino					
School	2010 Base API	2011 Base API	2012 API Growth	Growth to 2012	Percent of Growth
<b>Fischer</b>	<b>655</b>	<b>696</b>	<b>735</b>	<b>80</b>	<b>12.2%</b>
George	689	721	710	21	3.0%
Mathson	658	650	679	21	3.2%
Ocala	705	710	721	16	2.3%
Renaissance	806	838	857	51	6.3%
Sheppard	686	668	692	6	0.9%

English Language Learners					
School	2010 Base API	2011 Base API	2012 API Growth	Growth to 2012	Percent of Growth
<b>Fischer</b>	<b>648</b>	<b>675</b>	<b>696</b>	<b>48</b>	<b>7.4%</b>
George	654	678	665	11	1.7%
Mathson	633	622	645	12	1.9%
Ocala	694	678	699	5	0.7%
Renaissance	761	779	789	28	3.7%
Sheppard	721	673	704	-17	-2.4%

Socio-Economically Disadvantaged					
School	2010 Base API	2011 Base API	2012 API Growth	Growth to 2012	Percent of Growth
<b>Fischer</b>	<b>673</b>	<b>712</b>	<b>748</b>	<b>75</b>	<b>11.1%</b>
George	686	738	725	39	5.7%
Mathson	661	673	706	45	6.8%
Ocala	731	738	737	6	0.8%
Renaissance	827	856	871	44	5.3%
Sheppard	754	743	760	16	2.1%

Fischer Middle School increased student achievement by 75 API points from spring 2010 to spring 2012, an 11.1% increase. Statistically significant subgroups Hispanic (80 points 12.2%), English Language Learners (48 points, 7.4%), and Socioeconomically Disadvantaged (75 points, 11.1%) all increased at rates comparable to the overall school. The school made significant progress in narrowing the achievement gap for these students. QEIA funds have played an important role in this remarkable academic achievement data.



### **Justification and Rationale for Total Core Sections above 27 and HQT**

There are several reasons that Fischer did not meet the Rule of 27 and HQT.

- Fischer has diligently complied with all requirements set forth by New Directions the District Assistance Intervention Team (DAIT). As a DAIT District, students were leveled for instruction based on specific achievement data.
- Fischer has strategically regrouped students to provide differentiated instruction, support and intervention based upon student achievement data. Fischer has implemented assessment practices such as the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) and standards-based benchmark and short cycle assessments to flexibly and regularly group and regroup students based upon current specific academic need. Fischer has fully implemented alternative core and support curricula such as *Language!* to align instruction with identified instructional need.
- Fischer has worked closely with highly effective external support providers to restructure its assessment, placement, scheduling, grouping, instruction, and progress monitoring practices to accelerate achievement for at-risk students. Partners in School Innovation, Pivot Learning Partners, the Santa Clara County Office of Education, and the New Teacher Center have all provided support and training in meaningful use of data to inform instructional practices, and in best instructional practices.
- Fischer has been significantly impacted by a high level of student mobility. During 2010-11, Fischer had 64 students withdrawn and 71 students enter after the school year started. Students leaving and new students arriving presents additional challenges in constantly adjusting instructional groups. While the school was able to place some students in other middle schools to maintain the Rule of 27 and CSR ratio, this was not always possible. The closest middle school to Fischer is not within walking distance and some parents could not provide transportation.
- These instructional grouping practices also created challenges in monitoring Highly Qualified Teacher status for both site and Human Resources staff.

All of these initiatives and efforts, diligently implemented, have resulted in significant improvement in achievement for all students, including the significant subgroups. However, these best practices in grouping and regrouping students based upon instructional need have caused regular and ongoing difficulty in complying with the Rule of 27. Grouping at-risk students for effective intervention and support may require smaller class sizes, which then create pressure for larger class sizes for students currently meeting or exceeding grade level standards. This practice within the context of a departmentalized program with a master schedule of 120 core sections caused the previously identified classes to exceed the QEIA Rule of 27, in addition to the high student mobility and the lack of transfer options previously noted, in a very small number of sections, and caused a very small number of HQT violations.

### **Steps Implemented to Ensure Total Core Section Compliance with the Rule of 27 and HQT**

After close consultation with the CDE staff and the Santa Clara County Office of Education QEIA monitor, Alum Rock Union Elementary School District has revamped local monitoring of compliance with QEIA requirements.

1. The local monitoring plan includes monthly meetings with the site principals of the QEIA schools to ensure understanding of the compliance requirements and daily monitoring of school compliance with all QEIA Class Size Reduction requirements.
2. To ensure internal monitoring, Fischer administrative and support staff can now directly access the new student database to determine the projected impact on class size for the entire year, if an additional student is added to any core section.
3. The District has also provided support for Fischer Middle School in navigating the complexities of master scheduling, appropriate instructional grouping, and credential requirements.
4. As part of the internal control, Fischer has changed the registration procedures for students entering after the start of the new school year. Upon enrollment, the school verifies that space is available and notifies parents if their child must be placed at another school. If a transfer is necessary, staff works with parents on transportation options such as busing or carpool availability. Fischer also maintains a database of students wanting to return when an opening occurs.
5. In 2011-2012, the school opened an additional classroom which provides one additional, multi-subject teacher to allow more flexibility in the master schedule and to provide space for new students. Fischer shares its campus with another smaller district middle school, Renaissance Academy, and every available space is utilized. The new classroom was created through a collaborative effort to relocate the Student Broadcasting and one core classroom into a large portable. This arrangement effectively provides additional space for 5 core sections. The arrangement will continue in future years.
6. HQT requirements were reviewed with site and Human Resources staff to ensure compliance.

These extensive internal controls were effectively implemented in 2011-2012, and continue.

**Fischer Middle School is fully compliant with QEIA requirements at this time.** The basis for this waiver request was known at the time of our 2010-2011 waiver request, but CDE staff required that we address these waivers for a single year.

In 2012-2013, Fischer receives \$575,100 QEIA funding which supported five teaching positions, professional development, technology integration and opportunities for students to participate in extensive after-school interventions and Saturday Academies. The students, parents and teachers of Fischer Middle School and the Santa Clara County Office of Education acknowledge and support the continuation of QEIA funding as vital to the continued success of the under-served students in this large comprehensive middle school.

**Waiver Number:** 23-3-2013  
2013

**Period of Request:** July 1, 2011, to June 30,

Wilson Elementary School  
6020317  
Lynwood Unified School District

**Period Recommended:** Denial  
**CDS Code:** 19 64774

**Local Educational Agency Request:**

Lynwood Unified School District (USD) is an urban district located in Los Angeles County with a student population of approximately 15,500 students. Wilson Elementary School (ES) serves 710 students in kindergarten and grades one through six. Monitoring performed by the Los Angeles County Office of Education indicates that the class size reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were not fully met by Wilson ES in school year 2011–12. The school's current QEIA CSR targets for core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, and an average of 19.8, 17.7, and 24.1 in grades four through six, respectively.

Lynwood USD states that it has been in an ongoing financial crisis that has resulted in county office of education intervention and fiscal monitoring, with district fiscal solvency as the main priority for the 2011–12 school year. Further, the district states that it was not fiscally possible to staff QEIA schools, including Wilson ES, at the set targets, which are as low as 17.0 at full implementation. In addition, the district states that the low CSR target was based on the previous years' baseline, which was already low since the district was making an effort to keep elementary school class sizes at 20.0 prior to QEIA funding. The district states that continuing to staff Wilson ES with class sizes as low as 17.0 would result in a \$1.5 million encroachment on the general fund and the district cannot sustain the QEIA general fund encroachment and maintain fiscal solvency. As a result, the district states, the CSR targets at Wilson ES were not met during 2011–12 and the district was forced to staff Wilson ES at higher class size averages during 2012–13. The district states that because of this, it has now achieved fiscal solvency.

Lynwood USD requests a waiver of the QEIA CSR targets for kindergarten and grades one, two, four, five, and six classes at Wilson ES for school year 2011–12, and the establishment of alternative CSR targets of 27.0, 21.0, and 24.0 students per class in core classes in kindergarten and grades one and two, respectively, and 28.1, 29.6, and 28.8 students on average in core classes in grades four through six. In addition, Lynwood USD requests the establishment of an alternative CSR target of 25 students per class in core classes in kindergarten and grades one through three, and 25.0 students on average in core classes in grades four through six for school year 2012–13.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) recommends denial of this waiver request because its approval would not adequately address the educational needs of pupils per California *Education Code (EC)* Section 33051(a)(1).

The CDE recommends denial of this request based on four factors: (1) QEIA funding is expected to be used to hire teachers resulting in significantly reduced class sizes for

students at QEIA schools; (2) QEIA legislation requires an average classroom size of 25 students or lower for core subjects, with no more than 27 students per classroom regardless of the average classroom size; (3) significant increases in classroom sizes will potentially impact academic performance in the near future, causing student performance to suffer, and may have been a factor explaining why Wilson ES did not meet is API growth targets for 2012; and (4) approximately 80 percent of all QEIA schools have been successful in meeting QEIA program requirements and staying within the parameters of the program.

Reviewed by Wilson ES Schoolsite Council on December 19, 2012.

Supported by Lynwood Teachers Association, August 13, 2012.

**Local Board Approval:** January 22, 2013.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 1964774      Waiver Number: 23-3-2013      Active Year: 2013

Date In: 3/8/2013 12:49:21 PM

Local Education Agency: Lynwood Unified School District  
Address: 11321 Bullis Rd.  
Lynwood, CA 90262

Start: 7/1/2011      End: 6/30/2013

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Class Size Reduction Requirements  
Ed Code Section: 52055.740. (a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

- (1) Meet all of the following class size requirements:
  - (A) [For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).]
  - (B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
    - (i) [At least five pupils fewer per classroom than was the average in 2006-07.]
    - (ii) An average of 25 pupils per classroom.
    - (iii) [For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph.] A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

Outcome Rationale: Lynwood Unified School District (LUSD) has a student population of approximately 15,500 students and is located in an urban area in Los Angeles County. During the 2011-2012 school year, LUSD made substantial progress having a 22 point overall API growth, as well as a 19 point API growth for the English Learner subgroup. In addition, the currently embargoed 2011-2012 cohort graduation rate reflects an 11% growth for LUSD and a rate which exceeds that of the State average.

The Lynwood Unified School District (LUSD), on behalf of Wilson Elementary, is requesting to waive the established K-6 CSR targets for the 2011-2012 school year, in regards to *Education*

Code 52055.740 (a): QEIA Class Size Reduction. In addition, LUSD is requesting to increase the grades 4-6 CSR target requirements to 25/1 for the 2012-2013 school year and going forward.

	From	To
Grade K-3	20-1	
4	19.8-1	25-1
5	17.7-1	25-1
6	24.1-1	25-1

Wilson Elementary School has a student population of 710 students including students with disabilities. The student population at Wilson Elementary is predominantly Hispanic or Latino (95%), 44 percent are English learners. The majority of the student population is socioeconomically disadvantaged, with 94 percent of students receiving free/reduced lunch.

Wilson was fully compliant with QEIA program requirements prior to school years for which the waiver is being requested. For class size reduction related to QEIA, LUSD was asked to staff Wilson Elementary as low as 17/1 at full implementation. This low CSR target was based on the previous years' baseline being low since LUSD was making an effort to keep elementary school class sizes at 20 prior to QEIA funding. Continuing to staff Wilson Elementary as low 17/1 would result in a \$1.5 million encroachment on the general fund and LUSD cannot sustain the QEIA general fund encroachment and maintain fiscal solvency.

LUSD had been in ongoing financial crisis that resulted in County office intervention and fiscal monitoring. The main priority for the 2011-2012 school year was to have LUSD achieve fiscal solvency. It was not fiscally possible to staff QEIA schools, including Wilson, at the set targets to achieve this end. As a result, the CSR targets at Wilson Elementary were not met during 2011-2012 and LUSD was forced to staff Wilson at higher class-size averages during the 2012-2013 school year as well. As a result, LUSD has accomplished fiscal solvency and is no longer under County fiscal oversight.

Wilson Elementary had complied with CSR targets and in fact had averages below the targets in previous years. In addition, Wilson had previously met K-3 CSR targets until the 11-12 school year, which we are also including in this waiver request. It is because LUSD needed to gain fiscal solvency that it did not comply with CSR targets. In addition, to avoid an encroachment on general fund, LUSD on behalf of Wilson is requesting an increase to the CSR targets as stated above.

LUSD has made substantial progress having aside from having 22 point overall API growth, it is no longer under fiscal oversight by the County. Moreover, Wilson Elementary has been successfully staffed at 20-1 for K-3 and 25-1 for 4-6th while current non-QEIA school class sizes are an average of 30.

Student Population: 710

City Type: Urban

Public Hearing Date: 1/22/2013

Public Hearing Advertised: District and School Postings

Local Board Approval Date: 1/22/2013

Committee/Council Reviewed By: Wilson Elementary School Site Council  
Committee/Council Reviewed Date: 12/19/2012  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Yesenia Fernandez  
Position: Acting Director Instructional Services  
E-mail: yfernandez@lynwood.k12.ca.us  
Telephone: 562-631-8390  
Fax: 310-763-0959

Bargaining Unit: Date: 08/13/2012  
Name: Lynwood Teachers Association  
Representative: Ida Carbajal  
Title: President  
Position: Support  
Comments:

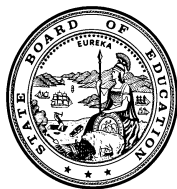


# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-28**





## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by **three local educational agencies** to waive portions of California *Education Code* Section 52055.740(a), regarding the Teacher Experience Index under the Quality Education Investment Act.

Waiver Numbers: Cutler-Orosi Joint Unified 16-2-2013  
Oakland Unified 35-1-2013  
Oakland Unified 36-1-2013  
West Contra Costa Unified 19-2-2013

☒ **Action**

☒ **Consent**

##### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

See Attachments 1, 3, 5, and 7 for details.

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The California Department of Education (CDE) Waiver Office has previously presented requests to waive the Teacher Experience Index (TEI) target as defined by the Quality Education Investment Act (QEIA) to the State Board of Education (SBE). All TEI waivers previously presented have been approved by the SBE. However, it is noted that QEIA is supplemental funding.

##### SUMMARY OF KEY ISSUES

###### Teacher Experience Index

Schools participating in the QEIA program were monitored by their county offices of education for compliance with program requirements for the first time at the end of the 2008–09 school year. At that time, local educational agencies (LEAs) were required to demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year. QEIA schools were required to demonstrate full compliance with all program requirements at the end of the 2010–11 school year.

QEIA schools are required to include an index based on the 2005–06 California Basic Educational Data System Professional Assignment Information Form as the base-

reporting year to evaluate annual improvements of funded schools toward balancing the index of teacher experience. Approved by the district superintendent, the index is an aggregate indicator of the teaching experience on a scale of one to ten. QEIA schools are required to have a TEI equal to or exceeding the average for the school district for this type of school and maintain or exceed this experience level for the duration of funding.

If an LEA requests a waiver of the TEI, the CDE reviews a range of information regarding the unique circumstances of the school and the LEA when formulating a recommendation to the SBE.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a),** available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>.

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the TEI targets based on statute requirements to stay in the program. Any school in the program not meeting those targets will risk the loss of future funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded).

### **ATTACHMENT(S)**

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- Attachment 1: Cutler-Orosi Joint Unified School District Request 16-2-2013 for a Quality Education Investment Act Teacher Experience Index Waiver (2 pages)
- Attachment 2: Cutler-Orosi Joint Unified School District General Waiver Request 16-2-2013 (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)
- Attachment 3: Oakland Unified School District Request 35-1-2013 for a Quality Education Investment Act Teacher Experience Index Waiver (2 pages)
- Attachment 4: Oakland Unified School District Request General Waiver Request 35-1-2013 (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)
- Attachment 5: Oakland Unified School District Request 36-1-2013 for a Quality Education Investment Act Teacher Experience Index Waiver (2 pages)
- Attachment 6: Oakland Unified School District General Waiver Request 36-1-2013 (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 7: West Contra Costa Unified School District Request 19-2-2013 for a Quality Education Investment Act Teacher Experience Index Waiver (2 pages)

Attachment 8: West Contra Costa Unified School District General Waiver Request 19-2-2013 (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

**Waiver Number:** 16-2-2013  
2013

**Period of Request:** July 1, 2011, to June 30,

2013

**Period Recommended:** July 1, 2011, to June 29,

El Monte Middle School  
6118111

**CDS Code:** 54 71860

Cutler-Orosi Joint Unified School District

### **Local Educational Agency Request:**

Cutler-Orosi Joint Unified School District (JUSD) is a rural school district located in Tulare County and has a student population of approximately 4,090 students. El Monte Middle School (MS) serves 917 students in grades six through eight. Cutler-Orosi JUSD provided teacher experience information from 2005–06, the base year upon which Quality Education Investment Act (QEIA) Teacher Experience Index (TEI) targets are calculated, showing that the average Cutler-Orosi JUSD middle school TEI is 7.2. Cutler-Orosi JUSD's average TEI for 2011–12 for this type of school is 6.0.

Cutler-Orosi JUSD states that El Monte MS recently converted from a junior high to a middle school and that the new grade six class brought with it a core of relatively new teachers. In addition, the district states that the instructional delivery method for grades seven and eight changed from a departmentalized instructional setting to a core subject instructional setting, requiring many new teachers to be hired to staff the school. Furthermore, the district states that the TEI dropped when the district offered a retirement incentive program for senior teachers two years in a row to reduce expenditures. During this time, the district states it contracted with a District Action Intervention Team (DAIT) and was obligated to use a teacher evaluation system that led to a number of veteran teachers to be non-reelected. As part of the DAIT process, the district states that it also pulled experienced teachers from schools to act as academic coaches, helping to lower the TEI. The district states that it is small, isolated, and rural, making it difficult to recruit experienced teachers, as they lose salary advantages when changing districts.

Cutler-Orosi JUSD requests a waiver of the QEIA TEI target for El Monte MS and establishment of an alternative TEI target of 6.0 for school years 2011–12 and 2012–13. A previous waiver was granted in September 2011 to El Monte MS that established an alternative TEI target for school year 2010–2011.

### **Additional Local Educational Agency and School Information for Consideration:**

School Locale Code	42*
LEA Average Daily Attendance (ADA)	4,090
School ADA	917
Grade Span	6–8
Total Number Of Schools With Similar Grade Span	Only School
2005–06 TEI (Baseline Calculation)	7.2
2011–12 QEIA School TEI	6.0
2012–13 QEIA School TEI	6.4
2011–12 Similar Type School TEI	N/A
2012–13 Similar Type School TEI	N/A
Percent of Similar Type School (2011–12 Data)	N/A

Made API Growth Target?	Yes
Made AYP?	Yes

\*Rural, distant: Territory that is more than 5 miles but less than or equal to 25 miles from an urbanized area, as well as rural territory that is more than 2.5 miles but less than or equal to 10 miles from an urban cluster.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Cutler-Orosi JUSD's request to reduce its TEI target for El Monte MS for school years 2011–12 and 2012–13.

The CDE recommends approval with the following conditions: (1) Applies only to teachers at El Monte MS; (2) For the period of July 1, 2011, through June 29, 2013, the alternate TEI target of 6.0 shall be established at El Monte MS; and (3) Within 30 days of approval of this waiver, Cutler-Orosi JUSD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the TEI requirement.

Reviewed by El Monte MS Schoolsite Council on February 6, 2013.

Supported by Cutler-Orosi Unified Teacher's Association, February 1, 2013.

**Local Board Approval:** February 13, 2013.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 5471860      Waiver Number: 16-2-2013      Active Year: 2013

Date In: 2/14/2013 9:03:44 AM

Local Education Agency: Cutler-Orosi Joint Unified School District  
Address: 12623 Avenue 416  
Orosi, CA 93647

Start: 7/1/2011      End: 6/30/2013

Waiver Renewal: Y  
Previous Waiver Number: 126-2-2011-W-13      Previous SBE Approval Date: 9/1/2011

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Teacher Experience Index  
Ed Code Section: 52055.740 (a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: *Education Code 52055.740 (a)*

[(4) Using the index established under Section 52055.730, have an average experience of classroom teachers in the school equal to or exceeding the average for the school district for this type of school.]

Outcome Rationale: El Monte Middle School is part of the Cutler-Orosi Joint Unified School District, which is a small, isolated, rural district on the northernmost edge of Tulare County. El Monte Middle School is the only school in the District that houses the 6th through 8th grade student population. Aside from its alternative education schools, the District consists of three elementary schools, one middle school and one high school. With the exception of one elementary school, all of the schools are in Program Improvement (PI). The middle school is in the QEIA program; as well as two of the three elementary schools.

The County QEIA Monitor takes the calculation of the Teacher Experience Index (TEI) from the District using the QEIA Tech Center worksheet. The TEI was set by the state from CBEDS information in the 05-06 school year. At this time the financial condition of the state and schools was still fairly good and major reductions had not taken place. The TEI for El Monte Middle School came out to be 7.2 on a scale with 10 as the maximum. This was also the TEI for the other schools in the District who are in the QEIA program. It should be noted that the school had recently converted from a junior high to a middle school. All 6th grade students now attend the middle school, bringing with them a core of relatively new teachers. In addition, the instructional delivery method for the entire 7th grade, as well as some of the 8th grade, changed from a departmentalized instructional setting into a core subject instructional setting. This required that many new teachers be hired to staff the school.

As the state's fiscal crisis impacted the District, the District took steps to reduce expenditures. One method that was utilized was to offer a retirement incentive program to its senior teaching staff. Sixteen teachers took advantage of the offer and left the District. Four of these teachers

left El Monte Middle School; each had more than twenty years of experience. One year later, another twenty-year, veteran teacher retired from the same middle school and the next year two more senior teachers retired. In addition to the retirees an additional six teachers, some with the maximum experience level available, resigned from El Monte Middle School/District for various personal reasons.

During this same period, the District entered into the DAIT program. The District took its obligations under DAIT, to work diligently to improve student achievement, very seriously. An improved system of teacher evaluations was implemented. The evaluation process led to a number of teachers, who had several years of experience, being non-reelected to the District in its efforts to strengthen its instructional program. The District and the school principal continue to monitor student progress and assess teacher effectiveness. As we continue to replace teachers who are not effective in the classroom, our TEI continues to drop. The reason for this is the way in which the TEI is calculated. For example, if a first year teacher is released and a new first year teacher is hired to be the replacement, the TEI drops. The released teacher would have been a "2" while the replacement is only a "1". The drop is even more dramatic when the teacher has multiple years of experience. The District hired several teachers with several years of experience last year in an effort to help meet the TEI goal. Unfortunately, several were not able to increase the rigor of instruction needed to raise our student achievement and thus were not reelected. This also dropped our TEI but is in keeping with the goal of QEIA, which is increased student achievement.

As part of the DAIT program, the District's outside evaluators had the District add intervention teachers to strengthen student achievement. Additionally, the District pulled talented experienced teachers from each school to act as academic coaches in the areas of mathematics, language arts and English language development. These coaches worked directly with teachers to reinforce the implementation of proven research based instructional strategies. Following these DAIT plan recommendations had the net effect of helping to lower the TEI.

In order to maintain a TEI, teachers who retire must be replaced by teachers with the same or greater level of experience. Mathematically, when additional teaching staff is hired, that new staff member would have to have an experience level that is equal to or greater than the school's TEI. As more teachers are hired to meet DAIT goals and student needs, the negative impact on the TEI is increased.

	Base Year Experience & TEI	Additional Staff with Same Experience	Additional Staff with Less Experience
Teacher A	10	10	10
Teacher B	8	8	8
Teacher C	6	6	6
Additional Staff	-		8
	6		
TEI	7.5	8	8

Being a small, isolated, rural district makes it difficult to recruit experienced teachers who often lose salary advantages when they change districts. Layoffs by other districts during this financial crisis have resulted in an increase in the number of candidates available. However, due to the seniority rule in layoffs, these teachers do not have high experience levels. Being a small district, with all but one of its schools in Program Improvement (PI), there is no source of senior teachers to transfer, that would not harm the improvement needs of the individual

schools.



The District believes that the TEI should be waived at El Monte Middle School. The school has made gains in its test scores over the last three years, which have included reaching "safe harbor". The District has brought in a new principal for the middle school, hired academic coaches to assist staff in instructional methodology and used QEIA and Title I funds to provide significant targeted professional development. The District continues to aggressively evaluate its teachers and uses data to support its instructional program. The loss of QEIA funds would significantly reduce the resources available to continue the school on its upward trend. Loss of funding would mean an increase in class size and loss of professional development and instructional improvement resources for teachers, which would severely effect student achievement. This would become a critical problem as we move into Common Core.

The Cutler-Orosi Joint Unified School District respectfully requests that the Teacher Experience Index (TEI) for El Monte Middle School be reset to 6.0 for the 2011-12 and 2012-13 school years.

Student Population: 917

City Type: Rural

Public Hearing Date: 2/13/2013

Public Hearing Advertised: Posted agenda items on website and school sites.

Local Board Approval Date: 2/13/2013

Committee/Council Reviewed By: El Monte Middle School Site Council

Committee/Council Reviewed Date: 2/6/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Craig Drennan

Position: Assistant Superintendent

E-mail: cbdrennan@cojUSD.org

Telephone: 559-528-4763 x1007

Fax: 559-528-3132

Bargaining Unit: Date: 02/01/2013

Name: Cutler-Orosi Unified Teacher's Association (COUTA)

Representative: Jeryll Merrill (Reed)

Title: President

Position: Support

Comments:

**Waiver Number:** 35-1-2013  
2012

**Period of Request:** July 1, 2011, to June 30,

2012

**Period Recommended:** July 1, 2011, to June 30,

Acorn Woodland Elementary School  
6002273  
Oakland Unified School District

**CDS Code:** 01 61259

### **Local Educational Agency Request:**

Oakland Unified School District (USD) is an urban school district located in Alameda County and has a student population of approximately 46,472 students. Acorn Woodland Elementary School (ES) serves 237 students in kindergarten and grades one through five. Oakland USD provided teacher experience information from 2005–06, the base year upon which Quality Education Investment Act (QEIA) Teacher Experience Index (TEI) targets are calculated, showing that the average Oakland USD elementary school TEI is 6.4. Oakland USD's average TEI for 2011–12 for this type of school is 6.4.

Oakland USD states that due to teacher attrition by either retirements or early retirement incentives, the school was unable to replace those vacancies with teachers that have years of experience equal to that of the retirees. The district adds that the school has built a cohort of very dedicated teachers who are committed to remain teaching at Acorn Woodland ES for the duration of QEIA and will, as a result, increase the TEI annually. The district further states that Acorn Woodland ES has a strong academic program and system of teacher professional development that maintains a high degree of collaboration and instructional preparedness that supports all teachers to provide a strong academic program for students regardless of years of experience.

Oakland USD requests a waiver of the QEIA TEI target for Acorn Woodland ES and establishment of an alternative TEI target of 5.9 for school year 2011–12.

### **Additional Local Educational Agency and School Information for Consideration:**

School Locale Code	11*
LEA Average Daily Attendance (ADA)	46,472
School ADA	237
Grade Span	K–5
Total Number Of Schools With Similar Grade Span	50
2005–06 TEI (Baseline Calculation)	6.4
2011–12 QEIA School TEI	5.9
2012–13 QEIA School TEI	6.4
2011–12 Similar Type School TEI	6.4
2012–13 Similar Type School TEI	6.4
Percent of Similar Type School (2011–12 Data)	92%
Made API Growth Target?	Yes
Made AYP?	No

\* City, Large: Territory inside an urbanized area and inside a principal city with population of 250,000 or more.

### **California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Oakland USD's request to reduce its TEI target for Acorn Woodland ES for school year 2011–12.

The CDE recommends approval with the following conditions: (1) Applies only to teachers at Acorn Woodland ES; (2) For the period of July 1, 2011, through June 30, 2012, the alternate TEI target of 5.9 shall be established at Acorn Woodland ES; and (3) Within 30 days of approval of this waiver, Oakland USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the TEI requirement.

Reviewed by QEIA Leadership Advisory Committee on January 8, 2013.

Supported by Oakland Education Association, December 21, 2012.

**Local Board Approval:** January 9, 2013.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0161259      Waiver Number: 35-1-2013      Active Year: 2013

Date In: 1/10/2013 12:55:14 PM

Local Education Agency: Oakland Unified School District  
Address: 1025 Second Ave.  
Oakland, CA 94606

Start: 7/1/2011      End: 6/30/2012

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Teacher Experience Index  
Ed Code Section: 52055.740(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(4) Using the index established under Section 52055.730, have an average experience of classroom teachers in the school equal to or exceeding the average for the school district for this type of school.

Outcome Rationale: QEIA requires that Acorn Woodland Elementary School attain a Teacher Experience Index target of 6.4 years of teaching experience to be compliant with the QEIA requirements for the 2011/12 school year. Due to teacher attrition by either retirements or early retirement incentives (golden handshakes), the school was unable to replace those vacancies with teachers that have equal years of experience to that of the retirees' average. The school has built a cohort of very dedicated teachers who are committed to remain teaching at Acorn Woodland for the duration of QEIA and will, as a result, increase the TEI annually. Further, Acorn Woodland has a strong academic program and system of teacher professional development that maintains a high degree of collaboration and instructional preparedness that supports all teachers to provide a strong academic program for students regardless of years of experience.

Student Population: 237

City Type: Urban

Public Hearing Date: 1/9/2013  
Public Hearing Advertised: The public hearing was advertised via the District Board of Education online system.

Local Board Approval Date: 1/9/2013

Committee/Council Reviewed By: QEIA Leadership Advisory Committee

Committee/Council Reviewed Date: 1/8/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. David Montes de Oca

Position: Executive Director

E-mail: david.montes@ousd.k12.ca.us

Telephone: 510-336-7500

Fax:

Bargaining Unit: Date: 12/21/2012

Name: Oakland Education Association

Representative: Trish Gorham

Title: President

Position: Support

Comments:

**Waiver Number:** 36-1-2013  
2012

**Period of Request:** July 1, 2011, to June 30,

2012

**Period Recommended:** July 1, 2011, to June 30,

Manzanita Community School  
6002042  
Oakland Unified School District

**CDS Code:** 01 61259

### **Local Educational Agency Request:**

Oakland Unified School District (USD) is an urban school district located in Alameda County and has a student population of approximately 46,472 students. Manzanita Community School (CS) serves 326 students in kindergarten and grades one through five. Oakland USD provided teacher experience information from 2005–06, the base year upon which Quality Education Investment Act (QEIA) Teacher Experience Index (TEI) targets are calculated, showing that the average Oakland USD elementary school TEI is 6.4. Oakland USD's average TEI for 2011–12 for this type of school is 6.4.

Oakland USD states that due to teacher attrition by either retirements or early retirement incentives, the school was unable to replace those vacancies with teachers that have years of experience equal to that of the retirees. The district adds that the school has built a cohort of very dedicated teachers who are committed to remain teaching at Manzanita CS for the duration of QEIA and will, as a result, increase the TEI annually.

Oakland USD requests a waiver of the QEIA TEI target for Manzanita CS and establishment of an alternative TEI target of 6.3 for school year 2011–12.

### **Additional Local Educational Agency and School Information for Consideration:**

School Locale Code	11*
LEA Average Daily Attendance (ADA)	46,472
School ADA	326
Grade Span	K–5
Total Number Of Schools With Similar Grade Span	50
2005–06 TEI (Baseline Calculation)	6.4
2011–12 QEIA School TEI	6.3
2012–13 QEIA School TEI	6.8
2011–12 Similar Type School TEI	6.4
2012–13 Similar Type School TEI	6.4
Percent of Similar Type School (2011–12 Data)	98%
Made API Growth Target?	No
Made AYP?	No

\* City, Large: Territory inside an urbanized area and inside a principal city with population of 250,000 or more.

### **California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports Oakland USD's request to reduce its TEI target for Manzanita CS for school year 2011–12.

The CDE recommends approval with the following conditions: (1) Applies only to teachers at Manzanita CS; (2) For the period of July 1, 2011, through June 30, 2012, the alternate TEI target of 6.3 shall be established at Manzanita CS; and (3) Within 30 days of approval of this waiver, Oakland USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the TEI requirement.

Reviewed by QEIA Leadership Advisory Committee on January 8, 2013.

Supported by Oakland Education Association, December 21, 2012.

**Local Board Approval:** January 9, 2013.

**California Department of Education  
WAIVER SUBMISSION - General**

CD Code: 0161259      Waiver Number: 36-1-2013      Active Year: 2013

Date In: 1/10/2013 1:00:27 PM

Local Education Agency: Oakland Unified School District  
Address: 1025 Second Ave.  
Oakland, CA 94606

Start: 7/1/2011      End: 6/30/2012

Waiver Renewal: N  
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Teacher Experience Index  
Ed Code Section: 52055.740(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(4) Using the index established under Section 52055.730, have an average experience of classroom teachers in the school equal to or exceeding the average for the school district for this type of school.

Outcome Rationale: QEIA requires that Manzanita Community School attain a Teacher Experience Index target of 6.4 years of teaching experience to be compliant with the QEIA requirements for the 2011/12 school year. Due to teacher attrition by either retirements or early retirement incentives (golden handshakes), the school was unable to replace those vacancies with teachers that have equal years of experience to that of the retirees' average. Manzanita Community School is requesting that its TEI be reduced to 6.1 or if that request is denied to have the TEI waived for the 2011/12 school year. The school has built a cohort of very dedicated teachers who are committed to remain teaching at Manzanita Community for the duration of QEIA and will, as a result, increase the TEI annually.

Student Population: 326

City Type: Urban

Public Hearing Date: 1/9/2013  
Public Hearing Advertised: The public hearing was advertised via the District Board of Education online system.

Local Board Approval Date: 1/9/2013



Committee/Council Reviewed By: QEIA Leadership Advisory Committee  
Committee/Council Reviewed Date: 1/8/2013  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. David Montes de Oca  
Position: Executive Director  
E-mail: david.montes@ousd.k12.ca.us  
Telephone: 510-336-7500  
Fax:

Bargaining Unit: Date: 12/21/2012  
Name: Oakland Education Association  
Representative: Trish Gorham  
Title: President  
Position: Support  
Comments:

**Waiver Number:** 19-2-2013  
2015

**Period of Request:** July 1, 2013, to June 30,

2014

Helms Middle School  
6057228

**Period Recommended:** July 1, 2013, to June 30,

**CDS Code:** 07 61796

West Contra Costa Unified School District

**Local Educational Agency Request:**

West Contra Costa Unified School District (USD) is an urban school district located in Contra Costa County and has a student population of approximately 29,422 students. Helms Middle School (MS) serves 950 students in grades six through eight. West Contra Costa USD provided teacher experience information from 2005–06, the base year upon which Quality Education Investment Act (QEIA) Teacher Experience Index (TEI) targets are calculated, showing that the average West Contra Costa USD middle school TEI is 6.6. West Contra Costa USD's average TEI for 2011–12 for this type of school is 6.4

West Contra Costa USD states that Helms MS initiated a mandated restructuring in 2010–11 via a Federal School Improvement Grant. The district further states that the selected intervention model for Helms MS was the Turnaround Model, which consisted of replacing the principal, rehiring no more than 50% of the staff, and implementing other prescribed and recommended strategies. As a component of the grant, the district states that many of the newly hired teachers are from Teach for America (TFA) and as a result, Helms MS's TEI average dropped significantly during the 2011–12 school year.

West Contra Costa USD requests a waiver of the QEIA TEI target for Helms MS and establishment of an alternative TEI target of 4.4 for school years 2013–14 and 2014–15. A previous waiver was granted in May 2012 to Helms MS that established an alternative TEI target for school years 2011–12 and 2012–13.

**Additional Local Educational Agency and School Information for Consideration:**

School Locale Code	22*
LEA Average Daily Attendance (ADA) (#)	29,422
School ADA (# of students)	950
Grade Span	7–8
Total Number Of Schools With Similar Grade Span	6
2005–06 TEI (Baseline Calculation)	6.6
2011–12 QEIA School TEI	4.4
2012–13 QEIA School TEI (projected)	4.6
2011–12 Similar Type School TEI	6.4
2012–13 Similar Type School TEI (projected)	6.6
Percent of Similar Type School (2011–12 Data)	69%
Made API Growth Target?	Yes
Made AYP?	No**

\*Suburb Large: Territory outside a principal city and inside an urbanized area with population less than 250,000 and greater than or equal to 100,000.

\*\*Made AYP schoolwide in ELA by Safe Harbor; did not make AYP in math.

**California Department of Education Recommendation and Conditions:**

The California Department of Education (CDE) supports West Contra Costa USD's request to reduce its TEI target for Helms MS for school year 2013–14.

The CDE recommends approval with the following conditions: (1) Applies only to teachers at Helms MS; (2) For the period of July 1, 2013, through June 30, 2014, the alternate TEI target of 4.4 shall be established at Helms MS; and (3) Within 30 days of approval of this waiver, West Contra Costa USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the TEI requirement.

Reviewed by Helms MS Schoolsite Council on January 12, 2012.

Supported by United Teachers of Richmond, January 10, 2012.

**Local Board Approval:** February 1, 2012.

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0761796      Waiver Number: 19-2-2013      Active Year: 2013

Date In: 2/14/2013 11:32:22 AM

Local Education Agency: West Contra Costa Unified School District  
Address: 1108 Bissell Ave.  
Richmond, CA 94801

Start: 7/1/2013      End: 6/30/2015

Waiver Renewal: Y  
Previous Waiver Number: 124-2-2012-W-33      Previous SBE Approval Date: 5/10/2012

Waiver Topic: Quality Education Investment Act  
Ed Code Title: Teacher Experience Index  
Ed Code Section: 52055.740(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: [Using the index established under Section 52055, have an average experience of classroom teachers in the school equal to or exceeding the average for the school district for this type of school.]

Outcome Rationale: In the 2010-11 school year, Helms initiated amandated restructuring via a Federal School Improvement Grant. The selected intervention model for Helms was the Turnaround Model, which consisted of replacing the principal and rehiring no more than 50% of the staff and implementing other prescribed and recommended strategies. As a component of the grant, many of the newly hired teachers are from Teach for America (TFA). As a result, Helms' TEI average dropped significantly during the 2011-12 school year. Based on this information, Helms requests a change in TEI. Although TFA candidates are beginning teachers with a limited number of years of experience, they must pass a highly selective recruitment process and attend regular training and support. The change requested is from the current goal of 6.7 to 4.4 for the remaining years of the grant.

Student Population: 950

City Type: Urban

Public Hearing Date: 2/1/2012  
Public Hearing Advertised: Notice posted at each school

Local Board Approval Date: 2/1/2012

Committee/Council Reviewed By: Helms School Site Council  
Committee/Council Reviewed Date: 1/12/2012  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Lyn Potter  
Position: Director of Educational Services  
E-mail: lpotter@wccusd.net  
Telephone: 510-307-4500  
Fax:

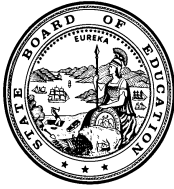
Bargaining Unit: Date: 01/10/2012  
Name: United Teachers of Richmond  
Representative: Diane Brown  
Title: President  
Position: Support  
Comments:



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-29**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by six districts to waive one or more of the following California *Education Code* sections related to bonded indebtedness limits: Sections 15102, 15106, 15268, and 15270(a). Total bonded indebtedness may not exceed 1.25 percent of the taxable assessed valuation of property for high school and elementary school districts or 2.5 percent for unified school districts. Depending on the type of bond, a tax rate levy limit of \$30 per \$100,000 of assessed value for high school and elementary school districts or \$60 per \$100,000 for unified districts, may also apply.

Waiver Numbers: Centinela Valley Union High School District 27-1-2013  
Lindsay Unified School District 38-2-2013  
Oxnard School District 51-1-2013  
Stockton Unified School District 2-3-2013  
West Contra Costa Unified School District 57-1-2013  
Westside Union Elementary School District 35-2-2013

☒ Action

☐ Consent

##### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends that the total bonded indebtedness limits be waived for each district with the following conditions: (1) the period of request does not exceed the recommended period shown on Attachment 1, (2) the total bonded indebtedness limit does not exceed the recommended new maximum shown on Attachment 1, (3) the district does not exceed the statutory tax rate limits, (4) the waiver is limited to the sale of bonds approved by the voters on the measure shown on Attachment 1, and (5) Capital Appreciation Bonds (CABs) are not issued subsequent to approval of these waivers if the debt ratio goes above the statutory tax rate limit.

##### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved all bond limit waiver requests limited to the sale of already authorized bonds and at the tax rate levy stated on the bond measure.

Note, the SBE has never approved a waiver that would allow the district to exceed the statutory tax rate levy.

## SUMMARY OF KEY ISSUES

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To raise funds to build or renovate school facilities, with voter authorization, school districts may issue general obligation (G.O.) bonds. Prior to 2001, districts needed a two-thirds approval. In November 2000, districts were given another option for authorizing and issuing bonds when California voters passed Proposition 39, which allows school bonds to be approved with a 55 percent majority vote if the district abides by several administrative requirements, such as establishing a committee to oversee the use of the funds. Once the G.O. bonds are authorized, school districts issue the bonds in increments needed to fund their facility projects.

When the voters authorize a local G.O. bond, they are simultaneously authorizing a property tax increase to pay the principal and interest on the bond. For Proposition 39 bonds, California *Education Code (EC)* sections 15268 and 15270(a) limit the tax rate levy authorized in each election to \$30 per \$100,000 of taxable property for high school and elementary school districts, and \$60 per \$100,000 for unified school districts. The *EC* does not provide tax rate levy limits for non-Proposition 39 bonds, however, an estimate of the tax rate levy required to repay the bonds is included in the voter pamphlet.

The *EC* also provides limits related to a district's total bonded indebtedness. *EC* sections 15102 and 15268 limit an elementary or high school district's total G.O. bond indebtedness to 1.25 percent of the total assessed valuation of the district's taxable property, whereas *EC* sections 15106 and 15270(a) limit a unified school district's to 2.5 percent. The limits on total bonded indebtedness and on tax rate levies, as they apply to the districts requesting a waiver, are noted on Attachment 1.

These districts are requesting waivers of the *EC* sections pertaining to total bonded indebtedness in order to issue bonds that voters have already approved. Because the limits are based on assessed valuation, it can have disparate effects on districts of similar types. For example, a district with high assessed valuation can issue more in G.O. bonds before reaching the limit than a district with a similar number of students and facility needs, but a lower assessed valuation. Similarly, in the current time of declining property values, districts are seeing a decline in their bonding capacity.

Without a waiver, school districts that are close to their total bonded indebtedness limit must issue fewer bonds, delay the issuance of bonds until their assessed valuation increases, or obtain other, more expensive, non-bond financing to complete their projects, the costs of which could be paid from district general funds. Therefore, CDE has historically recommended that the SBE approve related waiver requests. However, because it is CDE's assumption that the average voter is unaware tax rate levy limits could be changed by the SBE through a waiver process, to ensure that a waiver approval does not have an adverse effect on local approval of future bond measures, CDE has always recommended that the waiver be approved on the condition that the statutory tax rate levies are not exceeded at the time the bonds are issued.

Capital Appreciation Bonds (CABs) are loans that, typically, require no payments for a number of years. Essentially, the interest that accrues during this nonpayment period is financed and compounded over the bond term. The CABs allow schools to issue bonds without exceeding state or locally imposed caps on property taxes, at least in the short



term. However, lengthy delays in repayment coupled with sometimes 40-year terms, increases interest expenses, which in some cases has resulted in taxpayers paying as much as ten times the amount borrowed. The potential long-term effects also merit concern. While delaying payments solves short-term problems, in the future when taxpayers are being taxed in order to make CAB payments, it could negatively affect the district's ability to raise additional capital in order to modernize the buildings that the CABs financed.

The CDE recognizes that there may be a reasonable justification for school districts to issue CABs. However, due to the recent concerns regarding the issuance of CABs, the State Superintendent of Public Instruction Tom Torlakson along with State Treasurer Bill Lockyer urged school districts to impose a moratorium on issuing CABs until the Legislature and the Governor decide on reforms for the CABs issuance process to improve transparency and protect taxpayers against substantial debt service costs. Once reforms are enacted, subsequent CABs can be conducted in compliance with the new statutory requirements. Each of the six districts have stated that they are not planning to issue CABs.

The CDE has reviewed each waiver and the districts' schedule of assessed valuation and principal reduction to estimate the period of time that the district will be above the statutory minimum as shown on Attachment 1. The CDE recommends that the total bonded indebtedness limit be waived for each district with the following conditions: (1) the period of request does not exceed the recommended period shown on Attachment 1, (2) the total bonded indebtedness limit does not exceed the recommended new maximum shown on Attachment 1, (3) the district does not exceed the statutory tax rate limits, (4) the waiver is limited to the sale of bonds approved by the voters on the measure shown on Attachment 1, and (5) CABs are not issued subsequent to approval of these waivers if the debt ratio goes above the statutory tax rate limit.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a), available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>**

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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Approval of these waivers would allow the districts to accelerate the issuance of voter-approved bonds to avoid serious financial stress to the district's general fund.

## **ATTACHMENT(S)**

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Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver. (2 pages)

Attachment 2: Centinela Valley Union High School District General Waiver Request 27-1-2013 (2 pages) (The original signed waiver request and any attachments are on file in the Waiver Office.)

Attachment 3: Lindsay Unified School District General Waiver Request 38-2-2013

(4 pages) (The original signed waiver request and any attachments are on file in the Waiver Office.)

Attachment 4: Oxnard School District General Waiver Request 51-1-2013 (3 pages) (The original signed waiver request and any attachments are on file in the Waiver Office.)

Attachment 5: Stockton Unified School District General Waiver Request 2-3-2013 (5 pages) (The original signed waiver request and any attachments are on file in the Waiver Office.)

Attachment 6: West Contra Costa Unified School District General Waiver Request 57-1-2013 (6 pages) (The original signed waiver request and any attachments are on file in the Waiver Office.)

Attachment 7: Westside Union Elementary School District General Waiver Request 35-2-2013 (4 pages) (The original signed waiver request and any attachments are on file in the Waiver Office.)

## Districts Requesting Increase in Bond Indebtedness Limits

California *Education Code (EC)* sections 15102 and 15268 prohibit elementary and high school districts from issuing bonds in excess of 1.25 percent of the assessed valuation of a district's taxable property. *EC* sections 15106 and 15270(a) prohibit unified school districts from issuing bonds in excess of 2.5 percent of the assessed valuation of a district's taxable property. *EC* sections 15268 and 15270(a) limit bonds authorized by a 55 percent majority in elementary and high school districts to \$30 per \$100,000 of taxable property per election and unified school districts to \$60 per \$100,000.

Waiver Number	District	Requested Period  Recommended Condition	Total Bonded Indebtedness Limit and Tax Rate per \$100,000 Assessed Valuation Allowed by Law or Noted on Voter Pamphlet	District's Request	CDE Recommended (New Maximum)	Bargaining Unit, Representatives Consulted, Date/Position	Local Board and Public Hearing Approval Date	Advisory Committee(s) Consulted, Date/Position	Previous Waivers?  Prior Capital Appreciation Bonds (CABs)?  LEA Issuing CABs Under This Waiver?
27-1-2013	Centinela Valley Union High School District	<b>Requested:</b> January 1, 2013 to August 1, 2019  <b>Recommended:</b> May 9, 2013 to August 1, 2019	Debt Limit 1.25%  Tax Rate - No Limit (Non-Proposition 39)	Debt Limit 1.65%	Debt Limit 1.55% Limited to Sale of Bonds Approved by Voters on the November 2008 Election	California School Employees Association, Maria Rosas, President; Centinela Valley Secondary Teachers Association, Jack Foreman, President 11/27/2012 <b>Support</b>	12/11/12	Superintendent, Bond Counsel, Financial Advisor 10/23/12 <b>No Objections</b>	No  Yes: 2009, 2010, 2011, 2012  No
38-2-2013	Lindsay Unified School District	<b>Requested:</b> April 1, 2013 to December 31, 2019  <b>Recommended:</b> May 9, 2013 to December 31, 2019	Debt Limit: 2.5%  Tax Rate \$60.00 Voter Pamphlet \$60.00	Debt Limit 3.5%  Tax Rate \$60.00	Debt Limit 3.5% Limited to Sale of Bonds Approved by Voters on the November 2012 Election  Tax Rate \$60.00	Lindsay Teachers Association, Greg Shanley, President 2/5/13 <b>Support</b>	2/11/13	District English Language Advisory Council 2/5/13 <b>No Objections</b>	Yes: 11/2008  Yes: 2007, 2008  No
51-1-2013	Oxnard School District	<b>Requested:</b> February 1, 2013 to December 31, 2018  <b>Recommended:</b> May 9, 2013 to December 31, 2018	Debt Limit: 1.25%  Tax Rate \$30.00 Voter Pamphlet \$30.00	Debt Limit 1.5%  Tax Rate \$30.00	Debt Limit 1.5% Limited to Sale of Bonds Approved by Voters on the November 2012 Election  Tax Rate \$30.00	California Teachers Association, Clara Ramos, President; Oxnard Educators Association, Robin Lefkovits, President 1/8/13 and 1/9/13 <b>Support</b>	1/9/13	District Advisory Committee 1/9/13 <b>No Objections</b>	No  Yes: 2008  No

## Districts Requesting Increase in Bond Indebtedness Limits

California *Education Code (EC)* sections 15102 and 15268 prohibit elementary and high school districts from issuing bonds in excess of 1.25 percent of the assessed valuation of a district's taxable property. *EC* sections 15106 and 15270(a) prohibit unified school districts from issuing bonds in excess of 2.5 percent of the assessed valuation of a district's taxable property. *EC* sections 15268 and 15270(a) limit bonds authorized by a 55 percent majority in elementary and high school districts to \$30 per \$100,000 of taxable property per election and unified school districts to \$60 per \$100,000.

Waiver Number	District	Requested Period  Recommended Condition	Total Bonded Indebtedness Limit and Tax Rate per \$100,000 Assessed Valuation Allowed by Law or Noted on Voter Pamphlet	District's Request	CDE Recommended (New Maximum)	Bargaining Unit, Representatives Consulted, Date/Position	Local Board and Public Hearing Approval Date	Advisory Committee(s) Consulted, Date/Position	Previous Waivers?  Prior Capital Appreciation Bonds (CABs)?  LEA Issuing CABs Under This Waiver?
2-3-2013	Stockton Unified School District	<b>Requested:</b> June 1, 2013 to June 1, 2015  <b>Recommended:</b> May 9, 2013 to June 1, 2015	Debt Limit 2.5%  Tax Rate \$60.00	Debt Limit 4.23%  Tax Rate \$60.00	Debt Limit 4.23% Limited to Sale of Bonds Approved by Voters on the November 2012 Election (As Reauthorized)  Tax Rate \$60.00	Various, see waiver application 2/8/13 and 2/12/13 <b>Support/Neutral</b>	2/26/13	Citizens Oversight Committee 2/14/12 Resources & Infrastructure Committee 2/20/13 <b>No Objections</b>	Yes: 2/2011  Yes: 2011  No
57-1-2013	West Contra Costa Unified School District	<b>Requested:</b> March 15, 2013 to December 31, 2025  <b>Recommended:</b> May 9, 2013 to December 31, 2025	Debt Limit 2.5%  Tax Rate \$60 Voter Pamphlet \$48	Debt Limit 5.0%  Tax Rate: \$60	Debt Limit 5.0% Limited to Sale of Bonds Approved by Voters on the November 2012 Election  Tax Rate \$60	Public Employees Union, Scott Brown, Executive Director; School Supervisors Association, Sandra Falk, Executive Director; United Teachers of Richmond, Diane Brown, President 12/5/12 <b>Support</b>	1/9/13	Citizen Bond Oversight Committee 12/11/12 <b>Objections Noted by 3 Members</b>	Yes: 11/2002 3/2009 3/2011  Yes: 2006 2009 2010  No
35-2-2013	Westside Union Elementary School District	<b>Requested:</b> May 1, 2013 to May 1 2014  <b>Recommended:</b> May 9, 2013 to May 1, 2014	Debt Limit 1.25%  Tax Rate \$30 Voter Pamphlet \$23.72	Debt Limit 1.33%  Tax Rate \$30	Debt Limit 1.33% Limited to Sale of Bonds Approved by Voters on the November 2012 Election (As Reauthorized)  Tax Rate: \$30.00	Westside Union Teachers Association, Bryan Page, Chief Negotiator 2/14/13 <b>Neutral</b>	2/19/13	District Advisory Committee 2/7/13 <b>No Objections</b>	No  Yes: 2009 2010  No

Created by Department of Education  
March 29, 2013

<b>California Department of Education WAIVER SUBMISSION - General</b>
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CD Code: 1964352

Waiver Number: 27-1-2013

Active Year: 2013

Date In: 1/10/2013 11:00:33 AM

Local Education Agency: Centinela Valley Union High School District  
Address: 14901 South Inglewood Ave.  
Lawndale, CA 90260

Start: 1/1/2013

End: 8/1/2019

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: School Construction Bonds  
Ed Code Title: Bond Indebtedness Limit - Non-Unified  
Ed Code Section: 15102 & 15268  
Ed Code Authority: 33050-33053

Ed Code or CCR to Waive: 15102 The total amount of bonds issued pursuant to this chapter and Chapter 1.5 (commencing with Section 15264) shall not exceed [1.25%] 1.65% of the taxable property of the district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.

15268 The total amount of bonds issued pursuant to Chapter 1 (commencing with Section 15100) shall not exceed [1.25%] 1.65% of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.

Outcome Rationale: The District approved a Proposition 46 bond measure (NOT Proposition 39) in November 2008. Due to the credit crisis and overall weakness in the real estate market, assessed values decreased. At this time the District would like to continue with its planned capital improvement program to complete much needed construction across the various facilities of the District. To do so, the District requires a waiver of the 1.25% bonded indebtedness limit. It is estimated that the District will reach a bonded indebtedness of 1.55% in fiscal year 2014-15 if it issues its prospective bond financings. It is also estimated that the District will be back within the 1.25% bonded indebtedness limit by fiscal year 2018-19. The District requests a waiver of the bonded indebtedness limit up to 1.65% to provide some flexibility over the estimated needed bonded indebtedness of 1.55% in the 2014-15 fiscal year.

A detailed estimate of the District's estimated bonded indebtedness, assessed value growth history, outstanding bonds debt service, projected future bonds debt service, progress of current projects, and full measure CV bond measure ballot language is attached to this application.

Student Population: 6547

City Type: Urban

Public Hearing Date: 12/11/2012

Public Hearing Advertised: 1) Notice in a newspaper and 2) notice posted at each school

Local Board Approval Date: 12/11/2012

Committee/Council Reviewed By: Superintendent, Bond Counsel, Financial Advisor

Committee/Council Reviewed Date: 12/21/2012

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Tony Hsieh

Position: Managing Director

E-mail: tony.hsieh@keygentcorp.com

Telephone: 310-322-4222

Fax:

Bargaining Unit: Date: 11/27/2012

Name: California School Employees Association

Representative: Maria Rosas

Title: CSEA President

Position: Support

Comments:

Bargaining Unit: Date: 11/27/2012

Name: Centinela Valley Secondary Teachers Association

Representative: Jack Foreman

Title: CVSTA President

Position: Support

Comments:

<b>California Department of Education</b> <b>WAIVER SUBMISSION - General</b>
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CD Code: 5471993

Waiver Number: 38-2-2013

Active Year: 2013

Date In: 2/20/2013 11:50:23 AM

Local Education Agency: Lindsay Unified School District  
Address: 371 East Hermosa St.  
Lindsay, CA 93247

Start: 4/1/2013

End: 12/31/2019

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: School Construction Bonds

Ed Code Title: Bond Indebtedness Limit – Unified after 2000

Ed Code Section: California *Education Code* Section 15270(a)

Ed Code Authority: 33050

Ed Code or *CCR* to Waive: *Education Code* Section 15270(a). Notwithstanding Sections 15102 and 15268, any unified school district may issue bonds pursuant to this article that, in aggregation with bonds issued pursuant to Chapter 1 (commencing with Section 15100), may not exceed 2.5 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located.

Outcome Rationale: The District requests that its outstanding bonded indebtedness limit be increased to an amount not to exceed 3.50% through and until December 31, 2019. Due to slight decreases in assessed valuation of taxable property within the District, the District is currently unable to access the amount required of remaining general obligation authorization from a 2008 bond authorization or the sixteen million dollars (\$16M) authorized by the voters in November of 2012 to repair and modernize aging and dilapidated facilities. The District approximately \$1.8 million in remaining authorization that can be issued within the statutory debt limit; however, this amount is not sufficient to address the District's facility improvement needs.

In addition to its facility needs, the District also an outstanding Certificate of Participation (COP) debt, the repayment of which impacts the District's General Fund. Bond proceeds would be utilized to defease a portion of this COP debt, thereby providing relief to the General Fund.

In particular, the District requires the issuance of approximately Eight Million Dollars (\$8M) of general obligation bonds from the 2012 voter approved authorization in order to repair and modernize classroom facilities at four schools, Reagan, Jefferson, Washington and Lincoln Elementary Schools. These four school sites are the District's oldest facilities built in 1937, 1947, 1952 and 1987, respectively. The District has a compelling need to immediately access bond funds with respect to these four school sites, all of which are eligible for sizeable state facility grants for modernization. Approval of a waiver will allow the District to access that eligibility and provide much needed improvements to the school sites to improve academic performance and support the existing academic programs. The voters were advised of these facility needs as part of the bond authorization. The general public and the District's Governing Board are well aware of the need for the waiver.

## Reagan Elementary School

Reagan Elementary School is the oldest site within the District. The main building was built in 1937 and the portable library was added in 1986. A gymnasium was built in 2003 and portable classrooms were introduced in 1997, 1998, 2004, and 2005.

Reagan's population is 93% minority, 90% Hispanic or Latino. Forty-seven percent (47%) of the students are identified as English Learners. Approximately 78% of the student body is enrolled in the free or reduced price meal programs. Prior to becoming Reagan Elementary School, the site served as Steve Garvey Junior High. The school was converted from a 7-8 school to a K-8 school in 2012 based upon the research that supports improved academic achievement for middle grade students who attend a K-8 school rather than a traditional middle school.

The school is in need of modernization to support the educational program needs, including repairing leaking roofs, improving heating ventilation and air conditioning (HVAC) replacement, and the construction of a centralized front office to enhance safety and security for the school. Currently, visitors must walk through the interior school hallway before reaching the front office to sign in, creating a safety concern. In addition, the school has had students leave the campus without being accounted for because of the inability to provide complete observation of the front entry. A centralized front office would help to ensure school safety and security.

## Jefferson Elementary School

Jefferson Elementary School was originally built in 1947 and opened in 1948, over 65 years ago. Additional classrooms were added in 1952 and 1961. Portable classrooms were added in 1990, 1997, 1998, 2001, 2006, and 2011 to accommodate growth and programmatic needs. Unfortunately, these portables have consumed valuable campus real estate that is needed for the school's athletic and physical education programs.

Jefferson's population is 95.6% Hispanic or Latino and 66.9% of the total school population are identified as English language learners. Approximately 83.6% of the student body is enrolled in the free or reduced price meal programs, 19% of the students are homeless or in Foster Care, and 30% are migrant students. The school has failed to meet its AYP and is in school improvement. The school was converted from a K-6 grade school to a K-8 school in 2012 based upon the research that supports improved academic achievement for middle grade students who attend a K-8 school rather than a traditional middle school.

The school was previously the lowest performing school in the district. The District has made concerted efforts to improve the educational program including instituting a Dual Language Immersion program and a Science Technology Engineering and Math program ("STEM"). The School has made excellent academic growth the last two years. In 2012, Jefferson made a 40 point gain in its API score for a total API score of 685. The academic program has been strengthened by the Dual Language Immersion Program and the STEM project. Jefferson School has also implemented a Performance Based System which requires students to demonstrate mastery of the academic content before being moved to the next content level. The district received the Race to the Top Federal Grant based upon this innovative instructional model as well as the promising academic performance of students who are in the Performance Based System.

To support the continued success of these programs and the continued performance improvements, the District desperately needs to invest in the facilities at this school site. While some of the facilities have undergone modernization in 1987 and 2003, existing needs remain,



including modernizing classrooms, providing for technological infrastructure improvements, replacing roofing, heating, ventilation, and air conditioning (HVAC) systems. None of these improvements can be undertaken without relief from the State in the form of a waiver of the statutory debt limitation.

#### Washington Elementary School

Washington Elementary School was built in 1952. The school was modernized once in the mid 1980's and is again need of modernization. The school was converted from a K-6 grade school to a K-8 school in 2012 based upon the research that supports improved academic achievement for middle grade students who attend a K-8 school rather than a traditional middle school. Washington's enrollment is 658 students. One hundred percent of the students are on free/reduced lunch, 94% are Hispanic, 1% Asian, and 4% white, 12% are homeless or in Foster care, 64% are English Language Learners, and 31% are migrant students. Washington School has consistently and steadily made academic improvement. In 2012, Washington made a 26 point gain in their API score for a total API score of 701. The academic program has been strengthened with the implementation of a Dual Language Immersion Program. Washington School has also implemented a Performance Based System which requires students to demonstrate mastery of the academic content before being moved to the next content level. The district received the Race to the Top Federal Grant based upon this innovative instructional model as well as the promising academic performance of students who are in the Performance Based System.

#### Lincoln Elementary School

Lincoln Elementary School was built in 1987 and opened in 1988. Additional permanent structures were added in 1990, including the library and an addition to the multipurpose room. Portable classrooms have been added to accommodate the expanding student population and were introduced between 1991 and 1996.

Lincoln's population is 97% minority, 89.9% Hispanic or Latino. Fifty-seven percent (57%) of the students are identified as English Learners. Approximately 74.5% of the student body is enrolled in the free or reduced price meal programs. Lincoln, like Jefferson, has failed to meet its AYP. The school was converted from a K-6 grade school to a K-8 school in 2012 based upon the research that supports improved academic achievement for middle grade students who attend a K-8 school rather than a traditional middle school.

Because of the age of Lincoln's facilities, it is eligible for significant amounts of state facility grant funds. The school is also in need of modernization to support the educational program needs, including classroom modernization, leaking roofs and technology infrastructure improvements to support the educational program.

Approval of this waiver request would allow the District to provide much need facility improvements at Reagan, Jefferson Washington and Lincoln Elementary Schools to meet the programmatic needs of the schools.

Attached to this waiver request is a table representing Historical Assessed Values for Fiscal Years 2000-2001 through 2011-2012, a Summary of General Obligation Bond Indebtedness versus Projected Debt Limits, together with the Tax Rate Analysis. Based on the Tax Rate Analysis figures, the District anticipates that the tax rate will not exceed \$60.00 per year per \$100,000.00 of taxable property value for the 2012 election, should the California Department of Education grant this waiver request.

Student Population: 4130

City Type: Rural

Public Hearing Date: 2/11/2013

Public Hearing Advertised: 12.

The public hearing was advertised in the Foothills Sun-Gazette for a period of three weeks on January 23, 30, and February 6, 2013.

Local Board Approval Date: 2/13/2013

Committee/Council Reviewed By: 13.

The District has one District-wide council, the DELAC, District English Language Advisory Council

Committee/Council Reviewed Date: 2/5/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Jihad Hemaidan

Position: Assistant Superintendent- Business Services

E-mail: [jhemaidan@lindsay.k12.ca.us](mailto:jhemaidan@lindsay.k12.ca.us)

Telephone: 559-562-5111 x5113

Fax:

Bargaining Unit: Date: 02/05/2013

Name: Lindsay Teacher Association

Representative: Greg Shanley

Title: President

Position: Support

Comments:

<b>California Department of Education</b> <b>WAIVER SUBMISSION - General</b>
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CD Code: 5672538

Waiver Number: 51-1-2013

Active Year: 2013

Date In: 1/10/2013 4:57:14 PM

Local Education Agency: Oxnard School District  
Address: 1051 South A St.  
Oxnard, CA 93030

Start: 2/1/2013

End: 12/31/2018

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: School Construction Bonds  
Ed Code Title: Taxable Assessed Value of Property  
Ed Code Section: 15102, 15268  
Ed Code Authority: 33050

Ed Code or CCR to Waive: 6. *Education Code* Section 15102. The total amount of bonds issued pursuant to this chapter and Chapter 1.5 (commencing with Section 15264) shall not exceed [1.25] percent of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.

*Education Code* Section 15268. The total amount of bonds issued, including bonds issued pursuant to Chapter 1 (commencing with Section 15100), shall not exceed [1.25] percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located.

Outcome Rationale: The District requests that its Outstanding Bonded Indebtedness limit be increased to an amount not to exceed 1.50% through and until December 31, 2018. Due to slight decreases in assessed valuation of taxable property within the District, the District is currently unable to access its remaining general obligation authorization in the amount of \$90,000,000.00 for its capital facilities needs.

The District is experiencing severe overcrowding. Due to economic factors and a variety of local concerns, enrollment in the District grew by 500 students in the 2012-13 school year, the equivalent of one new elementary school. The District is also severely impacted by the age and conditions of its facilities. The District is currently utilizing in excess of 230 portable classrooms, the equivalent of 7 schools with an average 700 capacity. The District is in urgent need of two new schools and the modernization of at least 9 of their existing schools.

Furthermore, approval of this waiver will allow the District to participate in the State's School Facility Program. The District with this waiver will be eligible to access State funds for its capital facility projects on a State and Local matching basis. The District will be eligible to receive approximately \$80 million dollars from the State in matching funds for its New Construction and

Modernization projects. This funding eligibility is based upon the District's demonstrated need to house its pupils.

Approval of this waiver request would allow the District to meet the needs of its students while maintaining fiscal solvency. Attached to this waiver request is a table representing Historical Assessed Values for Fiscal Years 2000-2001 through 2011-2012, a Summary of General Obligation Bond Indebtedness versus Projected Debt Limits, together with the Tax Rate Analysis. Based on the Tax Rate Analysis figures, the District anticipates that the tax rate will not exceed \$30.00 per year per \$100,000.00 of taxable property value for the 2012 election, should the California Department of Education grant this waiver request.

Student Population: 16500

City Type: Suburban

Public Hearing Date: 1/9/2013

Public Hearing Advertised: Local Newspaper (Ventura County Star) on 12/22/2012 and 01/05/2013

Local Board Approval Date: 1/9/2013

Committee/Council Reviewed By: District Advisory Committee

Committee/Council Reviewed Date: 1/9/2013

Committee/Council Objection: N

Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Lisa Cline

Position: Assistant Superintendent, Business & Fiscal Svces

E-mail: lcline@oxnardsd.org

Telephone: 805-385-1501 x2400

Fax: 805-487-2118

Bargaining Unit: Date: 01/08/2013

Name: California School Employees Association

Representative: Clara Ramos

Title: President

Position: Support

Comments:

Bargaining Unit: Date: 01/09/2013

Name: Oxnard Educators Association

Representative: Robin Lefkovits

Title: President

Position: Support

Comments:

Bargaining Unit: Date: 01/09/2013  
Name: Oxnard Support Services Association  
Representative: Andrea Bleecher  
Title: President  
Position: Support  
Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 3968676

Waiver Number: 2-3-2013

Active Year: 2013

Date In: 3/1/2013 12:16:54 PM

Local Education Agency: Stockton Unified School District  
Address: 701 North Madison St.  
Stockton, CA 95202

Start: 6/1/2013

End: 6/1/2015

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: School Construction Bonds  
Ed Code Title: Bond Indebtedness Limit - Unified S.D.  
Ed Code Section: 15270(a)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: *Education Code* 15270. [(a) Notwithstanding Sections 15102 and 15268, any unified school district may issue bonds pursuant to this article that, in aggregation with bonds issued pursuant to Chapter 1 (commencing with Section 15100), may not exceed 2.5 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located.] The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred pursuant to this chapter at a single election, by a unified school district, would not exceed sixty dollars (\$60) per year per one hundred thousand dollars (\$100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with Article XIII A of the California Constitution.

Outcome Rationale: Desired Outcome

The granting of this waiver will permit the Stockton Unified School District (the "District") to issue up to \$156,000,000 in general obligation bonds (as reauthorized by the voters within the District on November 6, 2012) in July 2013 rather than delaying until 2020.

Rationale

A. Background

The Stockton Unified School District (the "District") was established on July 1, 1936 and is located in San Joaquin County. The boundaries of the District cover an area of approximately 55 square miles. The District has 54 schools, including 41 K-8 schools (including one K-5 school, and two charter schools), 11 high schools (including three specialty high schools, and four specialty charter high schools), one K-12 special education school, and one adult education school. The District also maintains an independent study program and a child development program.

On February 5, 2008, District voters approved a general obligation bond measure in the amount

of \$464,500,000 (the "2008 Authorization"). The District subsequently issued four series of bonds. There is approximately \$313.38 million remaining 2008 Authorization. Since 2010, the District's assessed valuation has decreased by 22% which has made the debt service for the bonds approved at the 2008 Election close to or at the Proposition 39 tax rate cap of \$60 per \$100,000 of assessed valuation. Since the District is near or at their Proposition 39 tax rate cap, it is unable to issue additional bonds under the 2008 Authorization without resorting to issuing expensive capital appreciation bonds, or waiting 20 or more years to issue (thereby delaying the voter approved projects).

In order to continue with the voter approved projects, the District returned to the voters in November 2012 to obtain approval to reauthorize \$156,000,000 of the remaining, unissued 2008 Authorization. On November 6, 2012, District voters approved a general obligation reauthorization bond measure in the amount of \$156 million (the "2012 Authorization"). The 2012 Authorization will allow the District to issue bonds under a new tax rate cap while saving taxpayers millions of dollars in interest and without increasing the 2008 Authorization.

Currently, the District may not issue any general obligation bonds under the 2012 Authorization without exceeding its 2.5% statutory bonding capacity under the California *Education Code*. However, the current capital facilities needs of the District are \$330,000,000.

The District wishes to issue general obligation bonds under its 2012 Authorization in one or more series to provide financing for the construction, rehabilitation, repair and/or equipping of public school facilities.

B. Financial Information

1. We estimate that issuing \$111,100,000 of bonds under the 2012 Authorization would raise the District's total indebtedness to approximately 4.23% of its assessed valuation. We further estimate that by 2023-24, the indebtedness would be reduced to 2.32%.

2. The assessed valuation within the District declined by 10.2%, 7.8%, 4.0% and 1.5% from fiscal year 2008-09 to 2009-10 through 2012-13, respectively. As a result, the District's bonding capacity has declined, thereby increasing the need for the requested waiver.

3. The Bonding Capacity Analysis shows the assessed valuation, projected tax rates and existing and proposed debt service requirements.

C. Reasons to approve this waiver

1. Approval will permit the District to provide essential learning and recreational facilities to its students, so that the District does not have to wait until fiscal year 2020 when the bond indebtedness of the District is expected to fall below the 2.5% limit set forth in the California *Education Code*.

2. Approval will allow the District to capitalize on lower construction costs.

3. Approval will allow the District to take advantage of near historic low interest rates.

4. Approval will satisfy the will of District voters who, at the November 6, 2012 election, reviewed and approved the reauthorization of \$156,000,000 of the 2008 Authorization.

The voters approved issuing these new bonds under a new tax rate cap so that needed District projects can be completed now, instead of years from now.

D. Who supports this waiver

1. California School Employees Association , Chapter 821 (CSEA #821)
2. Stockton Teachers Association (STA)
3. United Stockton Administrators (USA)
4. Stockton Pupil Personnel Association (SPPA)
5. Stockton Unified Supervisory Unit (SUSU)
6. California School Employees Association, Chapter 885 (CSEA #885)
7. Operating Engineers Local Union #3, Police Unit (OE3-Police)
8. Dale Scott & Company, Financial Advisor
9. Citizens' Oversight Committee
10. Kronick, Moskovitz, Tiedemann & Girard, a Professional Corporation, Bond and Disclosure Counsel
11. Resource and Infrastructure Committee

E. Who opposes this waiver

At a duly noticed public hearing on February 26, 2013, there was no opposition from the public or staff.

F. Summary

The Stockton Unified School District (the "District") has a current need to construct, repair and renovate District facilities, yet historical assessed valuation in the District, coupled with negative assessed valuation growth due to the weak housing market in Stockton, California for the past several years, prohibit the District from issuing its voter-authorized general obligation bonds. However, the taxpayers want to see improvements in educational facilities allowed for by Measure E, as approved in 2012. The District fully supports that mission and desires to continue to carry out the physical improvements necessary to improve services and facilities, particularly at the secondary comprehensive high school level. These improvements are necessary to provide a safe, healthy and productive educational environment for our students. Approving this request for a waiver of the District's bonding capacity limitation will allow for the continuation of an already efficient capital improvement program at the District, and permit the District to make necessary construction, repairs and upgrades to essential facilities.

In addition, we have the support of the following bargaining units: CSEA #821, CSEA #885, STA, USA, SPPA, SUSU, and OE3-Police. CSEA #318 is neutral. Also, we have letters of support from our Financial Advisor, Dale Scott & Co., and our Bond and Disclosure Counsel, Kronick, Moskovitz, Tiedemann & Girard, a Professional Corporation. The Bonding Capacity Analysis and the letters of support have been forwarded separately by Dale Scott & Co.

Student Population: 36400

City Type: Urban

Public Hearing Date: 2/26/2013



Public Hearing Advertised: In a newspaper, and posted and District office buildings: Admin Bldg-Madison St; Student Servcs Bldg-Channel St; Professional Develop Ctr-Marks Plaza; Special Ed Dept Bldg-Sutter Street.

Local Board Approval Date: 2/26/2013

Committee/Council Reviewed By: Citizens' Oversight Committee on 2/14/13; Resource & Infrastructure Committee members on 2/20/13  
Committee/Council Reviewed Date: 2/14/2013  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Steven Lowder  
Position: Superintendent  
E-mail: slowder@stockton.k12.ca.us  
Telephone: 209-933-7070  
Fax: 209-933-7071

Bargaining Unit: Date: 02/12/2013  
Name: California School Employees Assn Ch 885-Bus Dr  
Representative: Rena Fowler  
Title: President  
Position: Support  
Comments:

Bargaining Unit: Date: 02/08/2013  
Name: California School Employees Association, Ch 821  
Representative: Claudia Moreno  
Title: President  
Position: Support  
Comments:

Bargaining Unit: Date: 02/12/2013  
Name: California School Employees' Assn Ch 318  
Representative: Deloris Foster  
Title: President  
Position: Neutral  
Comments:

Bargaining Unit: Date: 02/12/2013  
Name: Operating Engineers Local Union #3, Police Unit  
Representative: Thomas Giles  
Title: President  
Position: Support  
Comments:

Bargaining Unit: Date: 02/12/2013  
Name: Stockton Pupil Personnel Association  
Representative: Barbara Greenwood  
Title: President  
Position: Support  
Comments:

Bargaining Unit: Date: 02/12/2013  
Name: Stockton Teachers' Association  
Representative: Ellen Old  
Title: President  
Position: Support  
Comments:

Bargaining Unit: Date: 02/12/2013  
Name: Stockton Unified Supervisors' Unit  
Representative: Bobby Prasad  
Title: President  
Position: Support  
Comments:

Bargaining Unit: Date: 02/12/2013  
Name: United Stockton Administrators  
Representative: Gina Hall  
Title: President  
Position: Support  
Comments:

**California Department of Education**  
**WAIVER SUBMISSION - General**

CD Code: 0761796

Waiver Number: 57-1-2013

Active Year: 2013

Date In: 1/11/2013 1:42:47 PM

Local Education Agency: West Contra Costa Unified School District  
Address: 1108 Bissell Ave.  
Richmond, CA 94801

Start: 3/15/2013

End: 12/31/2025

Waiver Renewal: N

Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: School Construction Bonds

Ed Code Title: Bond Indebtdness Limit – Unified after 2000

Ed Code Section: 15106 and 15270(a)

Ed Code Authority: 33050

Ed Code or CCR to Waive: 15106. In computing the outstanding bonded indebtedness of a unified school district or community college district for all purposes of this section, any outstanding bonds shall be deemed to have been issued for elementary school purposes, high school purposes, and community college purposes, respectively, in the respective amounts that the proceeds of the sale of those outstanding bonds, excluding any premium and accrued interest received on that sale, were or have been allocated by the governing board of the unified school district or community college district to each of those purposes respectively.

15270. The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred pursuant to this chapter at a single election, by a unified school district, would not exceed sixty dollars (\$60) per year per one hundred thousand dollars (\$100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with Article XIII A of the California Constitution.

Outcome Rationale: See attached

Student Population: 28642

City Type: Urban

Public Hearing Date: 1/9/2013

Public Hearing Advertised: Notice in a Newspaper on 12/26/2012 and 1/2/2012

Local Board Approval Date: 1/9/2013

Committee/Council Reviewed By: The Citizens Bond Oversight Committee(CBOC). Facilities Subcommittee approved on 12/11/2012.

Committee/Council Reviewed Date: 12/5/2012

Committee/Council Objection: Y

Committee/Council Objection Explanation: No vote by Kris Hunt, Gerard Boulanger and Charles Cowens at CBOC.

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Sheri Gamba  
Position: Associate Superintendent, Business Services  
E-mail: SGamba@wccusd.net  
Telephone: 510-231-1170  
Fax: 510-232-4149

Bargaining Unit: Date: 12/05/2012  
Name: Public Employees Union, Local #1  
Representative: Scott Brown  
Title: Supervising Business Agent  
Position: Support  
Comments:

Bargaining Unit: Date: 12/05/2012  
Name: School Supervisors Association  
Representative: Sandra Falk  
Title: Executive Director  
Position: Support  
Comments:

Bargaining Unit: Date: 12/05/2012  
Name: United Teachers of Richmond  
Representative: Diane Brown  
Title: President  
Position: Support  
Comments:

## California Department of Education General Waiver Request

**Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional documents using the “Attachments” section below:**

Waiver of Education Code Section 15106 and Section 15270(a)

**Summary.** The West Contra Costa Unified School District (the “District”) is seeking a waiver of Education Code Sections 15106 and 15270(a). Each of these statutes limits the statutory bonding capacity of a unified school district to 2.50% of its then-current assessed valuation, the former Code Section 15106 for bonds issued under measures approved by at least two-thirds vote and the latter Code Section 15270(a) for bonds issued under measures approved by at least fifty-five percent vote under Proposition 39. The District is seeking a waiver to 5.00% of its then-current assessed valuation (such level being consistent with the waiver received by the District for its 2010 Measure D bonds two years ago) and for a period of twelve years ending December 31, 2025. Approval of such waiver would enable the District to issue bonds under its recently approved 2012 Measure E bond authorization without delay in amounts necessary to keep its bond program moving forward to its scheduled completion.

**Financial Integrity.** It is our understanding that statutory bonding capacity limits are included in the Education Code to safeguard school districts from incurring excessive debt which might jeopardize their financial integrity. Since the beginning of the District’s facility bond program described below, the District’s financial integrity has improved by several objective measures: District fund balances have improved; the District has repaid its state loan and emerged to local control; and the District’s bond ratings have improved. The improved ratings reflect not only the District’s improved financial condition but also the view of the independent credit agencies that the issuance of additional bonds has not and will not jeopardize the District’s financial integrity. The District’s bonds are currently rated “Aa3” by Moody’s Investors Service, “A+” by Standard & Poor’s, and “A+” by Fitch Ratings. Because it will not jeopardize the financial integrity of the District, approval of the waiver is, in our view, consistent with the purpose of the law.

**Bond Program Size and Public Support.** The District is in the midst of a \$1.63 billion bond program that began in June 1998 with the approval of 1998 Measure E, a \$40 million bond measure that was approved by 76% of District voters. Since that time, the District has been expending bond proceeds on facility improvements on an ongoing and consistent basis. The goal of the facility bond program is to bring all District facilities to a common and equitable standard with regard to seismic and structural safety issues, upgrades to building systems, new classrooms, technology upgrades, and security. The facility bond program receives broad community support. Since 1998, voters have approved general obligation bond measures on six separate occasions, all by super-majority vote. The bond measures are summarized by date, size, and level of public support in the attached Exhibit A.

**Bond Program Status.** To date, the District has expended more than \$800 million of the \$1.63 billion that has been approved by voters. In addition, the District has expended a significant amount of State matching funds. Such expenditures have allowed the District to complete modernization work at 23 of its 37 elementary school sites, at 4 of its 6 middle school sites, and at 3 of its 6 comprehensive high school sites. The District’s current expectation is that funds

from its two most recently approved bond measures (2010 Measure D, a \$380 million bond measure approved in June 2010, and 2012 Measure E, a \$360 million bond measure approved in November 2012) will allow the District to continue to invest in its facilities on an ongoing and consistent basis, at a rate of approximately \$60 million per year, through 2023-24. At that time, the District expects to have completed work at all of its operating sites. Such expectation is based on current estimates of scope, cost, and other factors.

**Authorized but Unissued Bonds.** This past November, voters approved 2012 Measure E by a vote of 64% in favor. At the time of the election, the District had nearly \$360 million in authorized but unissued bonds under two prior authorizations – 2005 Measure J and 2010 Measure D. The decision to pursue a new bond measure despite having a significant amount of authorized but unissued bonds was a response to concerns about a projected slowing of the pace of the District's facility bond program, caused by unprecedented decline in assessed values in 2009-10 and 2010-11. Declining assessed values forced the District to downsize bond issuances beginning in 2009 in order to meet its tax rate objectives. With significant public input, the District modified its bond program, suspending the issuance of bonds under 2005 Measure J and placing a new \$380 million bond measure on the ballot in June 2010. In order to meet District tax rate and debt management objectives, 2010 Measure D was to be implemented over a ten year period with expenditures of \$40 million per year. Given the facility needs in the District and the community's desire to address those needs in a timely manner, the District placed another bond measure on the ballot in November 2012. The purpose of November 2012 Measure E was to increase bond expenditures over the expected \$40 million per year available to the District under 2010 Measure D.

**Bonding Capacity.** As a consequence of bonds issued under prior waivers, the District currently has bonds outstanding in excess of its statutory bonding capacity. In the current tax year, the District has an assessed value of \$23.6 billion, providing a 2.5% statutory bonding capacity of \$591 million. As of January 1, 2013, the District has \$797 million in bonds outstanding from prior authorizations. Absent approval of this waiver request by the Board of Education, the District will not be able to issue any bonds under 2012 Measure E. Voter approval of 2012 Measure E evidences the community's desire that the District issue additional bonds to continue to improve school facilities. Approval of this waiver will allow the District to do so.

**Public Disclosure of Intent to Apply for a Waiver.** When 2012 Measure E was placed on the ballot, the District suspected it would apply for a bonding capacity waiver to issue bonds under 2012 Measure E. The District plan was discussed at public meetings including meetings that were broadcast to the public by cable television. Both the seventy-five word ballot language and the long-form ballot language referenced statutory bonding capacity. The latter included the following sentence: "In order to fund projects and prior to the issuance of any bonds authorized by this Measure, the District may seek a waiver from the State Board of Education of the applicable bonding limit requirements of Section 15106 of the Education Code." The voter pamphlet contained additional references to the amount of bonds that the District had outstanding relative to state limitations and standards in the Argument Against Measure E and in the Rebuttal to Arguments for Measure E. The District's intent to apply for a bonding capacity waiver in connection with 2012 Measure E was a matter of public record. Voters within the District approved 2012 Measure E by a vote of 64% in favor.

**Additional Expressions of Public Support.** The public's support for the District's facility bond

program is evidenced not only by the super-majority votes received in connection with six separate bond measures since June 1998 - and the 64% level of voter support for 2012 Measure E, in particular, – but by the supporting resolutions approved by overlapping public agencies and the letters of support submitted by local public officials. Attached to this application form are supporting resolutions approved by the city councils of three of the five cities served by the District: Richmond, El Cerrito, and Pinole. The City of San Pablo has also passed a resolution of support, which will be forwarded when received. In addition, we have attached supporting resolutions from the West County Wastewater District, the Stege Sanitation District, the Contra Costa Building Trades Council and the Kensington Police Protection and Community Services District. Additional supporting resolutions and letters of support will be forwarded as they are received. These expressions of support from local elected officials serve as an indication of the high level of support that the District's bond program has earned in the community.

**Prior Waivers.** The District has received bonding capacity waivers from the Board of Education on three prior occasions. In November 2002, the District received a bonding capacity waiver in connection with three prior authorizations – 1998 Measure E, 2000 Measure M, and 2002 Measure D. The 2002 waiver increased the District's bonding capacity to 3%. In March 2009, the District received a bonding capacity waiver in connection with 2005 Measure J. The 2005 waiver increased the District's bonding capacity to 3.5% for all 2005 Measure J Bonds issued through December 31, 2019. The District has issued two series of bonds under such waiver and has \$77.6 million of 2005 Measure J Bonds that remain authorized but unissued. More recently, in March 2011, the District received a bonding capacity waiver in connection with 2010 Measure D. The 2011 waiver increased the District's bonding capacity to 5% for all 2010 Measure D Bonds through December 31, 2020. The District has issued one series of bonds under such waiver and has \$280 million of 2010 Measure D Bonds that remain authorized but unissued. The requested waiver will put the 2012 Measure E Bonds on par with the 2010 Measure D Bonds.

**Equity Issues.** Denial of this waiver request would deny the community the benefits of a facility bond program recently supported with a vote of 64% in favor. The District notes other equity issues raised by the fact the District's statutory bonding capacity is significantly less than the statutory bonding capacities of similarly sized local school districts. In fact, the District's statutory bonding capacity is lower than the statutory bonding capacity for the eight most similarly sized school districts in the six county Bay Area and less than half the statutory bonding capacity of a number of these school districts. The attached Exhibit B shows all the school districts in the Bay Area with enrollment similar to the District's (for comparison purposes, the enrollment for high school districts includes the enrollment of each of its feeder school districts), their 2012-13 tax base and statutory bonding capacity, and how their statutory bonding capacity compares to that of the District. These school districts represent school districts with a similar educational charge as the District (in terms of number of students served) and similar facility costs (since they are all located in the Bay Area), but in every case have more resources on which to draw in terms of local bond funding.

**Structure of Bond Program.** The approval of this waiver will not cause tax rates to increase beyond tax rate targets established in connection with 2012 Measure E nor tax rate targets established in connection with prior District bond measures. The District expects to issue the 2012 Measure E bonds in alternate years through 2023. The District further intends to structure debt repayment around a \$48 per \$100,000 of assessed valuation tax rate target. The District has a 15 year track record during which tax rates have been levied on 47 occasions on various measures with none of these tax rates exceeding targeted maximums. Since 2001, the District

has issued refunding bonds on four occasions, and on each occasion has reduced taxpayer obligations. The District expects that all of the bonds to be issued under 2012 Measure E will be issued as current interest bonds. The District does not plan to issue bond anticipation notes in connection with 2012 Measure E.

**Additional Taxpayer Safeguards.** Notwithstanding the granting of the subject waiver, the District will remain subject to Education Code Section 15270 that imposes a tax rate limit of \$60 per \$100,000 of assessed values for bonds issued under a single bond measure for a unified school district. Regardless of whether the District's waiver application is approved or at what percentage limit and regardless of any policy decisions made by future District boards, local taxpayers will continue to retain the protection of Section 15270 of the Education Code, and the District would be prohibited from issuing any 2012 Measure E bonds that would cause future tax rates required to support all 2012 Measure E bonds issued up to such date of issuance to exceed such \$60 per \$100,000 of assessed value maximum.

**Conclusion.** The District understands the importance of bonding capacity limitations and of prudent debt management practices. The District's bond program is well managed and transparent. The District's bonds are safe, as evidenced by the fact that the ratings on the District's bonds are as high as they have been in nearly twenty years. However, given the cost of modernizing the District's facilities to the standards that the District and the community desire, and given the limitations of doing so with a tax base that is small relative to the number of students being served by the District, the District requires a temporary waiver of the statutory bonding capacity limitation. District voters approved 2012 Measure E by a vote of 64% in favor. The District's plan to apply for a waiver has been publicly disclosed and was publicly discussed prior to the approval of 2012 Measure E. Approval of this waiver will allow the District's facilities bond program to proceed without delay or interim financing. The District desires that its students have the same learning opportunities and safe learning environments that are available to students in more affluent areas, and the public supports this objective. The District requests that the Board of Education grant this waiver so that the District can move ahead with its voter supported facility bond program to improve the safety and equity of educational facilities for its students without delay.



<b>California Department of Education</b> <b>WAIVER SUBMISSION - General</b>
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CD Code: 1965102

Waiver Number: 35-2-2013

Active Year: 2013

Date In: 2/20/2013 9:32:17 AM

Local Education Agency: Westside Union Elementary School District  
Address: 41914 50th St. West  
Quartz Hill, CA 93536

Start: 5/1/2013

End: 5/1/2014

Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: School Construction Bonds

Ed Code Title: Bond Indebtedness Limit - Non-Unified after 2000

Ed Code Section: 15102, 15268

Ed Code Authority: 33050

Ed Code or CCR to Waive: 15102. {The total amount of bonds issued pursuant to this chapter and Chapter 1.5 (commencing with Section 15264) shall not exceed 1.25 percent of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.} For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987-88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987-88 fiscal year, and multiplying that result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

15268. {The total amount of bonds issued, including bonds issued pursuant to Chapter 1 (commencing with Section 15100), shall not exceed 1.25 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located.} The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred by a school district pursuant to this chapter, at a single election, would not exceed thirty dollars (\$30) per year per one hundred thousand dollars (\$100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with Article XIII A of the California Constitution. For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987-88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987-88 fiscal year, and multiplying that result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

Outcome Rationale:

The granting of this waiver will permit the Westside Union School District to issue up to \$18,510,000 in general obligation bonds (as authorized by the voters within the District on November 6, 2012) in late 2013 rather than delaying 2 or more years. The District is requesting to waive the 1.25% bonding capacity limit to 1.33% for the next year enabling the District to issue the 2012 Election authorization in one series of bonds.

## Rationale

### *A. Background*

The Westside Union School District consists of an area of approximately 346 square miles, located in north Los Angeles County. The District includes primarily the communities of West Lancaster, Quartz Hill, West Palmdale and Leona Valley. The District has 12 schools, including 8 elementary schools (K-6), 2 middle schools (7-8), and 2 schools serving K-8 students. The District's estimated enrollment for 2012-13 is approximately 8,700.

On November 4, 2008 the Westside Union School District voters approved a general obligation bond measure in the amount of \$63.5 million. The District issued Series A for \$9.99 million in September 2009 and Series B for \$35 million in August 2010. There is approximately \$18.51 million remaining from the 2008 Election authorization. Since 2010, the District's assessed valuation has decreased by 25% which has made the 2008 Election bonds debt service close to or at the proposition 39 tax rate cap of \$30 per \$100,000 of assessed valuation. Since the District is at their proposition 39 tax rate cap, they are unable to issue any more bonds under the 2008 Election without resulting to issuing expensive capital appreciation bonds or waiting 20 or more years to issue.

In order to issue the remaining \$18.51 million to finish the projects that were approved by the voters in 2008, the District went back to the voters in November 2012 to reauthorize the remaining amount. On November 6, 2012 the Westside Union School District voters approved a general obligation reauthorization bond measure in the amount of \$18.51 million. The reauthorization election allows the District to issue the remaining 2008 Election \$18.51 million under a new tax rate cap while saving taxpayers millions of dollars in interest and not increasing already authorized voter debt. Currently, the District may not issue the 2012 Election authorization of \$18.51 million general obligation bonds under the California Education Code without exceeding its statutory bonding capacity.

The District plans to issue the entire 2012 Election authorization of \$18.51 million of general obligation bonds in one series. The 2012 Election Series A Bonds will be issued as current interest bonds only and will not contain any capital appreciation bonds. The District is planning to issue the bonds through a negotiated sale with Piper Jaffray in 2013 as soon as the waiver is granted. Although the 2012 Election Series A Bonds will be issued in 2013, the debt service due on the bonds will not affect the District's taxpayers until 2014-15.

The District wants to issue the bonds now in order to complete the projects that were approved by the voters in 2008 and again in 2012. This new issuance will provide financing for the construction, rehabilitation, repair and/or equipping of public school facilities.

*B. Projects to be Completed*

- Construction of Anaverde Hills Elementary School
- Upgrade electrical systems and improve student access to computers and modern technology
- Upgrade, modernize and renovate outdated classrooms
- Upgrade old heating, ventilation, and air conditioning systems
- Installation of on site cameras and door hardware upgrades for student safety
- Installation of synthetic turf for water conservation
- Construct, update, and renovate student support facilities including libraries, multipurpose rooms, restrooms, offices, and cafeterias
- Make handicap accessibility (ADA) upgrades and improvements throughout the District, including restrooms, classrooms, and playgrounds

*C. Financial Information*

1. We estimate that issuing \$18,510,000 of bonds under the Authorization would raise the District's total indebtedness to approximately 1.33% of its assessed valuation in 2014. We estimate that by 2017-18, the indebtedness would be reduced to 1.21%.
2. The assessed valuation within the District has declined 13.8% in 2010, 9.6% in 2011, 1.4% in 2012, and 2.1% in 2013. As a result, the District's bonding capacity declined, increasing the need for the requested waiver.
3. The attached Bonding Capacity Analysis shows the historical and projected assessed valuation, projected tax rates and existing and proposed debt service requirements.

*D. Reasons to approve this waiver*

- 1 Approval will permit the District to provide essential learning and recreational facilities to its students now and not have to wait until fiscal year 2015 or later when the bond indebtedness of the Districts is expected to fall below the limit set forth in the California Education Code.
- 2 Approval will allow the District to capitalize on lower construction costs.
- 3 Approval will allow the District to take advantage of near historic low interest rates.
- 4 Approval will satisfy the voters of the District who have reviewed and approved at the November 6, 2012 election to reauthorize the remaining \$18,510,000 from the 2008 Election. The voters approved to issue the remaining authorization under a new tax rate cap so that projects can be completed now instead of years into the future.

Student Population: 8700

City Type: Urban

Public Hearing Date: 2/19/2013  
Public Hearing Advertised: Newspaper 02/08/2013

Local Board Approval Date: 2/19/2013

Committee/Council Reviewed By: District Advisory  
Committee/Council Reviewed Date: 2/7/2013  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Robert Abel  
Position: Assistant Superintendent, Administrative Services  
E-mail: b.abel@westside.k12.ca.us  
Telephone: 661-722-0716 x72120  
Fax:

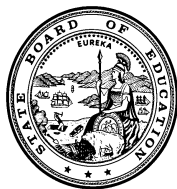
Bargaining Unit: Date: 02/14/2013  
Name: Westside Union Teachers Association  
Representative: Bryan Page  
Title: Chief Negotiator  
Position: Neutral  
Comments:



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **WAIVER ITEM W-30**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### ☒ General Waiver

##### SUBJECT

Request by **Jefferson Elementary School District** to waive California *Education Code* sections 15102 and portions of 15268 related to bonded indebtedness limits. Total bonded indebtedness may not exceed 1.25 percent of the taxable assessed valuation of property for elementary school districts. Depending on the type of bond, a tax rate levy limit of \$30 per \$100,000 of assessed value for elementary school districts, may also apply.

Waiver Number: 56-10-2012

☒ **Action**

☐ **Consent**

##### RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends that the bonded indebtedness limits be waived with the following conditions: (1) the period of request does not exceed the recommended period on Attachment 1, (2) the total bonded indebtedness limit does not exceed the recommended new maximum shown on Attachment 1, (3) the district does not exceed the statutory tax rate, (4) the waiver is limited to the sale of bonds approved by the voters on the measure noted on Attachment 1, and (5) Capital Appreciation Bonds (CABs) are not issued subsequent to approval of this waiver if the debt ratio goes above 1.25 percent.

The State Board of Education (SBE) has approved all bond limit waiver requests limited to the sale of already authorized bonds and at the tax rate levy stated on the bond measure. The SBE held over Jefferson Elementary School District's bonded indebtedness waiver from the March 2013 meeting. If the SBE does not take formal action at the May 2013 meeting, the waiver is deemed approved for one year without conditions.

Note, the SBE has never approved a waiver that would allow the district to exceed the statutory tax rate levy.

##### SUMMARY OF KEY ISSUES

To raise funds to build or renovate school facilities, with voter authorization, school districts may issue general obligation (G.O.) bonds. Prior to 2001, districts needed a two-thirds approval. In November 2000, districts were given another option for

authorizing and issuing bonds when California voters passed Proposition 39, which allows school bonds to be approved with a 55 percent majority vote if the district abides by several administrative requirements, such as establishing a committee to oversee the use of the funds. Once G.O. bonds are authorized, school districts issue the bonds in increments needed to fund their facility projects.

When the voters authorize a local G.O. bond, they are simultaneously authorizing a property tax increase to pay the principal and interest on the bond. For Proposition 39 bonds, California *Education Code (EC)* sections 15268 and 15270(a) limit the tax rate levy authorized in each election to \$30 per \$100,000 of taxable property for high school and elementary school districts, and \$60 per \$100,000 for unified school districts. The *EC* does not provide tax rate levy limits for non-Proposition 39 bonds, however, an estimate of the tax rate levy required to repay the bonds is included in the voter pamphlet.

The *EC* also provides limits related to a district's total bonded indebtedness. *EC* sections 15102 and 15268 limit an elementary or high school district's total G.O. bond indebtedness to 1.25 percent of the total assessed valuation of the district's taxable property, whereas *EC* sections 15106 and 15270(a) limit a unified school district's to 2.5 percent.

The district is requesting a waiver of the *EC* sections pertaining to the district's total bonded indebtedness in order to issue bonds that voters have already approved. Because the limits are based on assessed valuation, it can have disparate effects on districts of similar types. For example, a district with high assessed valuation can issue more in G.O. bonds before reaching the limit than a district with a similar number of students and facility needs, but a lower assessed valuation. Similarly, in the current time of declining property values, districts are seeing a decline in their bonding capacity.

Without a waiver, school districts that are close to their bonding capacity must issue fewer bonds, delay the issuance of bonds until their assessed valuation increases, or obtain other, more expensive, non-bond financing to complete their projects, the costs of which could be paid from district general funds. Therefore, CDE has historically recommended that the SBE approve related waiver requests. However, because it is CDE's assumption that the average voter is unaware tax rate levy limits could be changed by the SBE through a waiver process, to ensure that a waiver approval does not have an adverse effect on local approval of future bond measures, CDE has always recommended that the waiver be approved on the condition that the statutory tax rate levies are not exceeded at the time the bonds are issued.

Capital Appreciation Bonds (CABs) are loans that, typically, require no payments for a number of years. Essentially, the interest that accrues during this nonpayment period is financed and compounded over the bond term. The CABs allow schools to issue bonds without exceeding state or locally imposed caps on property taxes, at least in the short term. However, lengthy delays in repayment coupled with sometimes 40-year terms, increases interest expenses, which in some cases has resulted in taxpayers paying as much as ten times the amount borrowed. The potential long-term effects also merit concern. While delaying payments solves short-term problems, in the future when

taxpayers are being taxed in order to make CAB payments, it could negatively affect the district's ability to raise additional capital in order to modernize the buildings that the CABs financed.

The CDE recognizes that there may be a reasonable justification for issuing CABs. However, due to the recent concerns regarding the issuance of CABs and their sometimes exorbitant costs, the State Superintendent of Public Instruction and the State Treasurer are urging school districts to impose a moratorium on issuing CABs until the Legislature and the Governor decide on reforms for the CABs issuance process. By waiving the limit on total bonded indebtedness, a district could be allowed to issue CABs that it might not otherwise be allowed to issue. The district stated it is planning to issue CABs.

According to the district's revised information, if the waiver is approved, an increased cap on debt to assessed value of up to 1.92 percent would allow the district to issue \$22.6 million in bonds, but to remain within the tax rate levy of \$30 per \$100,000 of taxable property, the district can only issue \$1.7 million in current interest bonds (CIBs). Therefore, the district plans to issue \$20.8 million in 40 year CABs at an interest cost of \$81.4 million. The following chart identifies requirements that are included in proposed legislation, Assembly Bill (AB) 182, which CDE understands to be best practices, and information related to the CABs that the district plans to issue.

	<b>Jefferson's Request (For CABs Debt Only)</b>	<b>Proposed Legislation (AB 182)</b>
<b>Interest Rate</b>	5.35%	Not to exceed 8%
<b>Term</b>	40 years	25 years
<b>Total Debt Service Ratio</b>	4.9 to 1	Not to exceed 4 to 1
<b>Early Redemption Option</b>	Callable 10 years after original issuance	Callable 10 years after original issuance

The District's Superintendent and financial advisor met with the San Joaquin County Treasure Tax Collector and provided information on the District's planned bond financing. According to the District, the County did not raise any objections. However, the County Treasurer has not provided the District with a formal opinion regarding the waiver financing option that is being presented to the SBE. The District held the following meetings: Updated Funding Plan for Measure J on June 19, 2012, Board Workshop on August 1, 2012, Board Presentation: Proposed Bond Issuance on September 11, 2012, and a Community Meeting on October 9, 2012.

The CDE has reviewed the waiver and the district's schedule of assessed valuation and principal reduction to estimate the period of time that the district will be above the 1.25 percent statutory requirement as noted on Attachment 1. The CDE recommends that the bonded indebtedness limits be waived with the following conditions: (1) the period of request does not exceed the recommended period on Attachment 1, (2) the total bonded indebtedness limit does not exceed the recommended new maximum shown on Attachment 1, (3) the district does not exceed the statutory tax rate, (4) the waiver is limited to the sale of bonds approved by the voters on the measure noted on



Attachment 1, and (5) CABs are not issued subsequent to approval of this waiver if the debt ratio goes above 1.25 percent.

**Demographic Information:** The Jefferson Elementary School District has a student population of 2,516 and is located in a suburban area in San Joaquin County.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a), available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=33001-34000&file=33050-33053>**

#### **FISCAL ANALYSIS (AS APPROPRIATE)**

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Approval of the waiver would allow the district to accelerate the issuance of voter-approved bonds to avoid serious financial stress to the district's general fund.

#### **ATTACHMENT(S)**

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Attachment 1: List of Waiver Number(s), District(s), and Information Regarding Each Waiver. (1 page)

Attachment 2: Jefferson Elementary School District General Waiver Request 56-10-2012 (16 pages) (The original signed waiver request and any attachments are on file in the Waiver Office.)

### District(s) Requesting Increase in Bond Indebtedness Limits

California *Education Code (EC)* sections 15102 and 15268 prohibit elementary and high school districts from issuing bonds in excess of 1.25 percent of the assessed valuation of a district's taxable property. *EC* sections 15106 and 15270(a) prohibit unified school districts from issuing bonds in excess of 2.5 percent of the assessed valuation of a district's taxable property. *EC* sections 15268 and 15270(a) limit bonds authorized by a 55 percent majority in elementary and high school districts to \$30 per \$100,000 of taxable property per election and unified school districts to \$60 per \$100,000.

Waiver Number	District	Requested Period Recommended Condition	Total Bonded Indebtedness Limit and Tax Rate per \$100,000 Assessed Valuation Allowed by Law or Noted on Voter Pamphlet	District's Request	CDE Recommended (New Maximum)	Bargaining Unit, Representatives Consulted, Date/Position	Local Board and Public Hearing Approval Date	Advisory Committee Consulted, Date/Position	Previous Waivers? Prior Capital Appreciation Bonds (CABs)? LEA Issuing CABs Under This Waiver?
56-10-2012	Jefferson Elementary School District	<b>Requested:</b> January 1, 2012 to June 30, 2022  <b>Recommended:</b> May 9, 2013 to June 29, 2022	Debt Limit 1.25%  Tax Rate \$30.00 Voter Pamphlet \$23.03	Debt Limit 2.25%  Tax Rate \$30.00	Debt Limit 1.92% Limited to Sale of Bonds Approved by Voters on the November 2008 Election  Tax Rate \$30.00	California Teachers Association: Jeniene Lang, President 10/16/12 Support	10/22/12	Superintendent, Bond Counsel, Financial Advisor 10/23/12 <b>No Objections</b>	No  Yes: 2011  Yes

Created by Department of Education  
April 3, 2013

**California Department of Education  
WAIVER SUBMISSION - General  
California Department of Education  
WAIVER SUBMISSION - General**

CD Code: 3968544

Waiver Number: 56-10-2012

Active Year: 2012

Date In: 10/23/2012 8:42:44 AM

Local Education Agency: Jefferson Elementary School District  
Address: 1219 Whispering Wind Drive  
Tracy, CA 95377  
Fax: 209-836-2930

Start: 7/1/2012

End: 6/30/2022

Waiver Renewal: N

Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: Other Waivers  
Ed Code Title: Other Waivers  
Ed Code Section: 15102  
Ed Code Authority: 33050-33053

Ed Code or CCR to Waive: *Education Code* Section 15102

15102. The total amount of bonds issued pursuant to this chapter and Chapter 1.5 (commencing with Section 15264) [shall not exceed 1.25 percent of the taxable property of the school district] or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.

Outcome Rationale: The District has impending needs to reconstruct the facilities at Jefferson School and to construct a gymnasium at Anthony Traina School. Without the approval to exceed the statutory bonded indebtedness limit, the District would have to put the repair/replacement projects currently planned for these two (2) schools at risk of long-term delay until its bonded indebtedness ratio is below the 1.25% statutory limit. The District Board, staff and community are well informed of the financing plan being proposed general obligation bond issuance in order to fund these much needed and voter-approved projects. Additionally, moving forward with the planned facilities projects now will help the District avoid construction cost inflation in the future. If the waiver is not approved, the construction delay would result in inequity for students attending District schools and considerable community hardship to the District.

Student Population: 2516

City Type: Suburban

Public Hearing Date: 10/22/2012

Public Hearing Advertised: Notice in a newspaper; notice posted at each school site; notice published on District's website

Local Board Approval Date: 10/22/2012

Community Council Reviewed By: Measure J Committee; Board of Education; Traina Parents'  
Club; Monticello & Jefferson Parents' Club  
Community Council Reviewed Date: 10/10/2012  
Community Council Objection: N  
Community Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Rachel Chang  
Position: Financial Advisor  
E-mail: rchang@dolinkagroup.com  
Telephone: 949-250-8366  
Fax: 209-836-2930

Bargaining Unit: Date: 10/16/2012  
Name: California Teachers Association  
Representative: Jeniene Lang Title: President Position: Support  
Comments:

## **Jefferson School District**

### **Bonded Indebtedness Limit Waiver Request Supporting Documentation**

#### **Background**

On November 2, 2010, voters within the Jefferson School District ("District") approved Measure J, authorizing the District to issue up to \$35.4 million in general obligation bonds ("GO Bonds") to finance the needed facilities improvements. Under Proposition 39, the affirmative vote requirement to authorize the bonds was 55%. Measure J gathered more than the required bond approval threshold with an affirmative vote from 67.3% of the votes casting ballots.

On May 11, 2011, the District issued its Series A GO Bonds in the amount of \$6.4 million, allowing the District to complete and plan various new construction and rehabilitation projects throughout the District. As of today, \$29.0 million remains authorized but unissued under Measure J.

Similar to many school districts throughout the State of California ("State"), the District's overall facilities funding program has been severely impacted by declines in local assessed valuations ("AV"), as well as continued State fiscal troubles. The District is, therefore, requesting this bonded indebtedness limit waiver in order to proceed with the issuance of its next series of GO Bonds. For your review, enclosed please find the following supporting documentation concerning the District's waiver request.

#### **1. Assessed Valuation History**

Included in **Enclosure 1** is a 14-year overall AV history for the District.

#### **2. Outstanding Bonded Indebtedness**

To date, the District has issued one (1) series of GO Bonds under Measure J, in the amount of \$6.4 million. The District does not have any other outstanding bonded indebtedness. Debt service schedule of the outstanding Series A GO Bonds is included in **Enclosure 2**. As set forth in **Enclosure 3**, the District's current debt ratio is 0.41% of its total AV and has approximately \$12.9 million in available bonding capacity.

#### **3. Series B GO Bonds**

Approval of the waiver request would allow the District to issue not-to-exceed \$25.0 million in GO Bonds to reconstruct Jefferson School and to construct a gymnasium at Anthony Traina School. Jefferson School was constructed in the 1920's and has not been significantly modernized since 1966. This facility is not capable of providing all of the elements associated with 21<sup>st</sup>-Century learning, as well as requiring a significant amount of infrastructure improvements. As for Anthony Traina School, it is the only K-8 school in the District that does not have a gymnasium. These are much needed and voter-approved projects from Measure J that will create equity for all students attending District schools. Please reference **Enclosure 4** for the Bond Project List of Measure J approved by the voters.



#### **4. Current and Estimated Annual Tax Rates**

The 2010 Authorization was approved by the voters under Proposition 39. Proposition 39 imposes a statutory annual tax rate limit of \$30 per \$100,000 of taxable AV. The annual tax rate projection will be closely monitored by the District's finance team and will be updated on an annual basis. The approval of this waiver request will not result in the District issuing more than the statutory tax rate and/or the authorization amount noted in the GO Bond measure. **Enclosure 5** provides the current and estimated annual tax rates.

#### **5. Bonded Indebtedness Ratio Requested**

If the waiver is approved, the District's bonded indebtedness ratio is estimated to exceed the statutory limit of 1.25% for elementary school districts to approximately 2.04% in fiscal year 2012/2013. **Enclosure 6** outlines the detailed calculations of the ratio that the District needs above the current available bonding capacity. Based on the current AV, a 5.85% average annual AV growth projected from fiscal year 2012/2013 to fiscal year 2021/2022, and the scheduled principal reduction on the outstanding and proposed GO Bonds, it is anticipated that the District's bonded indebtedness ratio will be below the statutory limit of 1.25% by fiscal year 2021/2022. Therefore, the District hereby requests the bonded indebtedness ratio to be increased to 2.25% from fiscal year 2012/2013 to 2021/2022. Please also reference **Enclosure 6** for a detailed projection of the aforementioned.

#### **6. Capital Appreciation Bonds**

The use of capital appreciation bonds ("CABs") is inherent in comprehensive school facilities funding programs using GO Bonds passed under Proposition 39. Since 2010, with the passage of Assembly Bill 1388, California school districts could issue debt with a repayment term of 40 years with increased flexibility. Due to heightened attention to the use of long-dated CABs and to promote maximum transparency, the Board of Education of the District ("District Board") met on numerous occasions to discuss the District's bond program. Specifically, the District Board met on June 19, 2012, to receive an update on the Measure J program, on August 1, 2012, to evaluate the funding needs and options, on September 11, 2012, to examine all available financing scenarios, and, most recently on October 9, 2012, to determine the financing plan moving forward. Additionally, public input was sought on Measure J bond program during the same District Board meeting on October 9, 2012, when the public was encouraged to attend and give input to the District Board as it considers what action will best benefit and District and taxpayers. Included in **Enclosure 7** are the various presentations discussed at these aforementioned District Board meetings.

#### **Conclusion**

The District has impending needs to reconstruct the facilities at Jefferson School and to construct a gymnasium at Anthony Traina School. Without the approval to exceed the statutory bonded indebtedness limit, the District would have to put the repair/replacement projects currently planned for these two (2) schools at risk of long-term delay until its bonded indebtedness ratio is below the 1.25% statutory limit. The District Board, staff and community are well informed of the financing plan being proposed for the Series B GO Bonds in order to fund these much needed and voter-approved projects. Additionally, moving forward with the planned

facilities projects now will help the District avoid construction cost inflation in the future. If the waiver is not approved, the construction delay would result in inequity for students attending District schools and considerable community hardship to the District.



**Enclosure 1**  
**Jefferson School District**  
**14-Year Assessed Valuation History**

<b>Fiscal Year</b>	<b>AV<sup>[1]</sup></b>	<b>% Growth</b>
1999/2000	\$540,712,065	N/A
2000/2001	\$672,927,515	24.45%
2001/2002	\$803,105,262	19.34%
2002/2003	\$969,172,660	20.68%
2003/2004	\$1,111,516,098	14.69%
2004/2005	\$1,374,995,371	23.70%
2005/2006	\$1,634,805,150	18.90%
2006/2007	\$1,971,229,396	20.58%
2007/2008	\$2,141,068,934	8.62%
2008/2009	\$2,063,322,315	-3.63%
2009/2010	\$1,715,984,125	-16.83%
2010/2011	\$1,646,580,391	-4.04%
2011/2012	\$1,536,997,628	-6.66%
2012/2013	\$1,535,553,115	-0.09%

[1] Source: California Municipal Statistics, Inc.

5-Year Historical Growth Rate:	-7.12%
10-Year Historical Growth Rate:	3.66%
14-Year Historical Growth Rate:	8.36%

**Enclosure 2**  
**Jefferson School District**  
**Outstanding Bonded Indebtedness**

**General Obligation Bonds, 2010 Election, Series A**

<b>Period Ending (August 1)</b>	<b>Principal</b>	<b>Interest</b>	<b>Debt Service</b>
2013	\$60,000.00	\$318,543.76	\$378,543.76
2014	\$70,000.00	\$316,743.76	\$386,743.76
2015	\$10,000.00	\$314,643.76	\$324,643.76
2016	\$20,000.00	\$314,343.76	\$334,343.76
2017	\$30,000.00	\$313,543.76	\$343,543.76
2018	\$40,000.00	\$312,343.76	\$352,343.76
2019	\$55,000.00	\$310,743.76	\$365,743.76
2020	\$70,000.00	\$308,543.76	\$378,543.76
2021	\$90,000.00	\$305,743.76	\$395,743.76
2022	\$39,095.70	\$368,048.06	\$407,143.76
2023	\$120,000.00	\$302,143.76	\$422,143.76
2024	\$140,000.00	\$296,143.76	\$436,143.76
2025	\$165,000.00	\$289,143.76	\$454,143.76
2026	\$190,000.00	\$280,893.76	\$470,893.76
2027	\$53,946.00	\$442,447.76	\$496,393.76
2028	\$53,789.75	\$462,604.01	\$516,393.76
2029	\$54,283.50	\$487,110.26	\$541,393.76
2030	\$49,545.25	\$516,848.51	\$566,393.76
2031	\$48,979.20	\$542,414.56	\$591,393.76
2032	\$267,554.10	\$348,839.66	\$616,393.76
2033	\$385,000.00	\$257,687.50	\$642,687.50
2034	\$435,000.00	\$236,993.76	\$671,993.76
2035	\$490,000.00	\$213,612.50	\$703,612.50
2036	\$545,000.00	\$187,275.00	\$732,275.00
2037	\$610,000.00	\$157,300.00	\$767,300.00
2038	\$675,000.00	\$123,750.00	\$798,750.00
2039	\$750,000.00	\$86,625.00	\$836,625.00
2040	\$825,000.00	\$45,375.00	\$870,375.00
<b>Total</b>	<b>\$6,342,193.50</b>	<b>\$8,460,450.46</b>	<b>\$14,802,643.96</b>

**Enclosure 3**  
**Jefferson School District**  
**Current Bonded Indebtedness as of Fiscal Year 2012/2013**

<b>Fiscal Year</b>	<b>2012/2013 Assessed Valuation</b>	<b>Outstanding Bonded Indebtedness</b>	<b>Bonded Indebtedness Ratio</b>
2012/2013	\$1,535,553,115	\$6,342,194	0.41%

**Enclosure 4**  
**Jefferson School District**  
**Measure J Bond Project List**

*(See Page 10 of 16)*

## **APPENDIX A-1 SCHOOL FACILITIES PROJECTS ELIGIBLE TO BE FUNDED WITH PROCEEDS OF BONDS**

The Governing Board of Jefferson Elementary School District has evaluated the District's need to acquire, construct, improve and equip its existing facilities to upgrade safety, security and technology at District sites and to meet the educational needs of its citizens. These projects will provide upgrading of District schools and facilities and will move the District closer to helping students meet and exceed high academic standards.

The general obligation bond funds of the Jefferson Elementary School District ("District") would be used for the District's public schools and school projects to modernize, replace, renovate, construct, equip, furnish, rebuild, supplement and otherwise improve District facilities to meet student educational needs through specified projects as described in the following list, which include generally expansion of technology, communications and electrical systems, supporting infrastructure (such as safety and security and communication systems, heating, ventilation and air conditioning (HVAC) systems and plumbing, energy, electrical and technology systems), site improvements and, to the extent necessary, making District schools and school facilities compliant with the Americans with Disabilities Act (ADA), as further described herein. Specific items are presented to provide an example and are not intended to limit the generality of a broader description of authorized projects and general obligation bond funds may facilitate the prepayment of a possible future interim financing of an authorized project.

### **Jefferson School:**

- Health, Safety and Accessibility Improvements: Improve ADA and fire access throughout the campus, remove/replace asphalt and concrete paving remove/replace ramps to facilities, upgrade restrooms and hardware.
- Building Improvements and Repairs:
  - Modernization of classroom buildings remove wall surfaces, provide new ceilings, windows, lighting, doors and hardware, HVAC systems, electrical distribution, roofing, lockers.
  - Modernization of facilities - remove wall surfaces, convert existing facilities to updated uses, Provide new ceilings, windows, lighting, doors and hardware, HVAC systems, electrical distribution, roofing, restore facilities exteriors.
  - Modernization of Gymnasium - upgrade wall finishes, provide ADA access, modernize/expand gymnasium, roof improvements.
- Portable Classroom Adjustments - remove and relocate facilities and programs.

### **Site Improvements and Repairs:**

- Provide shade structures and additional tables and benches
- Improve existing parking lot.
- Provide perimeter safety fencing.
- Upgrade/improve septic system.
- Upgrade electrical service.
- Upgrade drainage infrastructure.
- Replace asphalt and concrete paving throughout campus.

- Upgrade landscape and irrigation system.
- **Site Enhancements/Reconfiguration:**
- Relocate front entrance.
- New building to house Administration and related functions.
- New classroom building.
- Provide artificial turf at playfields.
- Add synthetic running track and fitness course.
- Technology: upgrade technology.

**Anthony Trama Elementary School:**

- Health, Safety and Accessibility Improvements: Enhance security systems.
- Site Enhancements: add gymnasium, shade structures, provide artificial turf at playfields, add synthetic running track, provide renewable energy systems.
- Technology: upgrade technology.

**Monticello Elementary School:**

- Health, Safety and Accessibility Improvements: Upgrade security system, update and improve ADA accessibility.
- Building Improvements and Repairs: Restroom improvements, wall and building repairs.
- **Site Improvements and Repairs:**
- Add shade structures and weather protection.
- Playground improvements.
- Repair asphalt paving throughout campus.
- Improve landscaped areas, drainage and landscaping.
- Repair damaged concrete stair risers.
- Add ramps and provide skirting around ramps.
- Improve existing parking.

**Site Enhancements:**

- Add storage facilities.
- Add renewable energy systems.
- Provide artificial turf at playfields.
- Increase size of staff lounge facilities.
- Facilities reconfiguration to add conference room space.
- Technology: upgrade technology.

**Tom Hawkins Elementary School:**

- Health, Safety and Accessibility Improvements: Provide fencing; provide security system.
- Building Improvements and Repairs:
- Replace signage.
- Improvements to central kitchen.
- Improvements to library.
- Site Improvements and Repairs:
- Sidewalk improvements.
- Air conditioning and ventilation improvements.
- Playground area improvements.

- Improve site drainage.
- **Site Enhancements:**
  - Add shade structures.
  - Add synthetic running track and fitness court.
  - Provide artificial turf at playfields.
  - Provide renewable energy systems.
  - Add drapery to stage at multi-purpose room.
  - Add shade structures, drinking fountains and screening from weather.
- **Technology:** upgrade technology.

To prevent future student overcrowding, facilities for District schools may also include the acquisition of property and the design and construction of classrooms, labs and school facilities to expand existing District school sites and campuses.

### **Health and Safety Upgrades, School Renovations and School Modernization Projects Description**

The referenced health, safety and accessibility upgrades, school renovations and school modernization projects for the within-identified District campuses may include the following: design and architect costs, repair, renovation, upgrading and/or replacement of lighting and electrical systems, heating, air and ventilation (HVAC) systems, fire safety equipment and systems, including alarms and fire safety doors, restroom facilities, plumbing and sewer systems and facilities, flooring replacement, abatement of hazardous materials, roof renovation and/or replacement, window replacement, wall systems, security systems, communication systems, technology upgrades, fencing, site improvements (including walkways and safety fencing), landscaping, and handicap accessibility improvements to meet current health, safety and instructional standards which will improve the overall educational experience for students in the District.

### **Project Costs for Furnishings and Equipment**

Project costs for furnishings and equipment for some or all of the within-identified District campuses may include, but are not limited to, some or all of the following: security, safety and communication systems and equipment, desks and tables; window and floor coverings (including tiles and carpeting); computers and computer systems, media recording and presentation equipment, including, but not limited to, audio systems, kitchen equipment; improvements and furnishings; science laboratory equipment; and/or other electronic equipment and systems.

Project costs for the above-referenced projects may include site preparation, installation costs, engineering and design costs, project management costs, title acquisition costs, state or local costs or expenses involving design, planning, site and facilities developmental costs and charges, necessary supporting infrastructure, environmental review, construction and completion of the aforementioned projects and related costs. Project costs may also include the payment or prepayment of lease payments for lease of authorized facilities, property or buildings, prepayment of lease obligations for facilities purposes and payment of costs and expenses for interim financing of authorized facilities (including, but not limited to, financing delivery costs). Allowable project costs also include: costs of issuing the bonds or other securities (as authorized under California law), informational distribution costs and election costs authorized under State

law. Funding for these projects may come from this bond measure or other District resources as the school facilities needs arise.



Approval of the District's bond measure does not guarantee that all of the identified projects within this list will be funded beyond local funds generated by the bond measure and does not guarantee that the projects will be completed in any particular order.

**Enclosure 5**  
**Jefferson School District**  
**Current and Estimated Annual Tax Rates<sup>[1]</sup>**

<b>Fiscal Year</b>	<b>Existing Series A Tax Rate</b>	<b>Proposed Series B Tax Rate</b>	<b>Estimated Combined Tax Rate</b>
2012/2013	\$24.65	\$5.25	\$29.91
2013/2014	\$25.19	\$4.80	\$29.99
2014/2015	\$20.93	\$8.95	\$29.88

[1] Represents tax rate per \$100,000 of taxable AV.

**Enclosure 6**  
**Jefferson School District**  
**Bonded Indebtedness Ratio Requested**

**Outstanding Bonded Indebtedness<sup>[1]</sup>**

<b>Fiscal Year</b>	<b>Bonded Indebtedness</b>	<b>Total Principal Reduction</b>	<b>Principal Addition</b>	<b>Total Bonded Indebtedness</b>
2012/2013	\$6,342,194	(\$85,000)	\$25,000,000	\$31,257,194
2013/2014	\$31,257,194	(\$70,000)	\$0	\$31,187,194
2014/2015	\$31,187,194	(\$57,177)	\$0	\$31,130,017
2015/2016	\$31,130,017	(\$61,987)	\$0	\$31,068,029
2016/2017	\$31,068,029	(\$70,243)	\$0	\$30,997,786
2017/2018	\$30,997,786	(\$83,491)	\$0	\$30,914,295
2018/2019	\$30,914,295	(\$109,644)	\$0	\$30,804,651
2019/2020	\$30,804,651	(\$138,898)	\$0	\$30,665,753
2020/2021	\$30,665,753	(\$169,354)	\$0	\$30,496,399
2021/2022	\$30,496,399	(\$128,981)	\$0	\$30,367,418

[1] Preliminary.

**Projected Bonded Indebtedness Ratio**

<b>Fiscal Year</b>	<b>% Growth</b>	<b>AV</b>	<b>Total Bonded Indebtedness</b>	<b>Bonded Indebtedness Ratio</b>
<b>2012/2013</b>	<b>-0.09%</b>	<b>\$1,535,553,115</b>	<b>\$31,257,194</b>	<b>2.04%</b>
2013/2014	0.00%	\$1,535,553,115	\$31,187,194	2.03%
2014/2015	1.00%	\$1,550,908,646	\$31,130,017	2.01%
2015/2016	2.00%	\$1,581,926,819	\$31,068,029	1.96%
2016/2017	3.00%	\$1,629,384,624	\$30,997,786	1.90%
2017/2018	5.56%	\$1,719,985,897	\$30,914,295	1.80%
2018/2019	9.34%	\$1,880,626,673	\$30,804,651	1.64%
2019/2020	10.43%	\$2,076,844,970	\$30,665,753	1.48%
2020/2021	10.78%	\$2,300,718,230	\$30,496,399	1.33%
<b>2021/2022</b>	<b>10.50%</b>	<b>\$2,542,212,887</b>	<b>\$30,367,418</b>	<b>1.19%</b>

1-Year Projected Growth Rate:	0.00%
3-Year Projected Growth Rate:	1.00%
9-Year Projected Growth Rate:	5.85%

**Enclosure 7**  
**Jefferson School District**  
**District Board Presentations**  
**(Dated June 19, 2012, August 1, 2012,**  
**September 11, 2012, and October 9, 2012)**

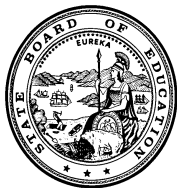
**The original signed waiver request and any attachments or additional information  
provided are on file in the Waiver Office.**



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 12**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

SUBJECT	
Consideration of "Reasonable Basis"/Mitigating Circumstances Requests for Determination of Funding as required for Nonclassroom-based Charter Schools Pursuant to California <i>Education Code</i> sections 47612.5 and 47634.2, and associated <i>California Code of Regulations</i> , Title 5.	<input checked="" type="checkbox"/> Action <input checked="" type="checkbox"/> Information <input type="checkbox"/> Public Hearing

#### SUMMARY OF THE ISSUE(S)

California *Education Code* sections 47612.5 and 47634.2 specify that a charter school may receive apportionment funding for nonclassroom-based instruction only if a determination of funding is made by the State Board of Education (SBE). The charter schools listed in Attachment 1 are requesting SBE approval of their determination of funding request with the consideration of mitigating circumstances. Approval of these requests will allow the charter schools listed in Attachment 1 to receive apportionment funding.

#### RECOMMENDATION

##### California Department of Education Recommendation

The California Department of Education (CDE) recommends that the SBE approve a determination of funding with the consideration of mitigating circumstances, identified in Attachment 1, for charter schools that offer nonclassroom-based instruction.

##### Advisory Commission on Charter Schools Recommendation

The Advisory Commission on Charter Schools (ACCS) met on April 10, 2013, and voted to approve the CDE's recommendation for charter schools identified in Attachment 1, Tables 1–4. There were five schools, which are listed in Attachment 1, Tables 5 and 6 that the ACCS recommendation differs from the CDE's recommendation. The CDE recommendations are provided in Table 5. For two schools, Santa Barbara Charter School and Mountain Oaks School, the CDE recommendation is not to approve mitigating circumstances and approve a determination of funding of 85 percent for four

years, for the other three schools, California Virtual Academy @ Jamestown, Crossroads Charter School, and SAC Academic & Vocational Academy, the CDE recommendation is not to approve mitigating circumstances and approve a determination of funding of 70 percent for four years. The ACCS is recommending that the mitigating circumstances are approved and a determination of funding of 100 percent for four years for each of these five schools.

## **BRIEF HISTORY OF KEY ISSUES**

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Pursuant to the *California Code of Regulations*, Title 5 (5 CCR) Section 11963.4(a), charter schools requesting a determination of full (100 percent) funding meet the following criteria:

- At least 40 percent of the school's public revenues are to be spent on salaries and benefits for all employees who possess a valid teaching certificate.
- At least 80 percent of all revenues are to be spent on instruction and related services.
- The ratio of average daily attendance for independent study pupils to full-time certificated employees does not exceed a pupil-teacher ratio of 25:1.

However, 5 CCR Section 11963.4(e) also states that the ACCS may find a "reasonable basis" (also referred to as mitigating circumstances) by which to make a recommendation other than one that results from the criteria specified in the regulations.

5 CCR Section 11963.6(c) specifies that a determination of funding shall be in increments of a minimum of two years and a maximum of five years in length. 5 CCR Section 11963.6(a) requires a determination of two years for a new charter school in its first year of operation. Additionally, EC Section 47612.5(d)(2) requires a determination of five years for a charter school that has achieved a rank of six or greater on the Academic Performance Index (API) for the two years immediately prior to receiving a determination of funding. When making a recommendation for a funding determination, the CDE also considers the number of years a charter school has been in operation and the number of years requested by the charter school.

5 CCR Section 11963.4(e) provides specific examples of the types of mitigating circumstances and for the ACCS to consider documented data regarding individual circumstances, such as "one-time or unique or exceptional circumstances":

A reasonable basis for the Advisory Commission on Charter Schools to make a recommendation other than one that results from the criteria specified in subdivision (a) may include, but not be limited to, the following: the information provided by the charter school pursuant to paragraphs (2) through (8), inclusive, of subdivision (b) of section 11963.3, documented data regarding individual circumstances of the charter school (e.g., one-time or unique or exceptional

expenses for facilities, acquisition of a school bus, acquisition and installation of computer hardware not related to the instructional program, special education charges levied on the charter school by a local educational agency, restricted state, federal, or private grants of funds awarded to the charter school that cannot be expended for teacher salaries, or contracted instructional services other than those for special education), the size of the charter school, and how many years the charter school has been in operation. The Advisory Commission on Charter Schools shall give charter schools with less than a total of one hundred (100) units of prior year second period average daily attendance or that are in their first year of operation serious consideration of full funding.

There are 13 charter schools that did not meet the criteria to qualify for a proposed recommendation of 100 percent funding. Therefore, these schools submitted a request to consider mitigating circumstances. In the initial request submitted by the 13 charter schools, the schools did not provide sufficient supporting documentation for the mitigating circumstances identified in their requests. Therefore, CDE staff followed up with each of the charter schools, on at least three or more occasions, by phone and or e-mail to request additional information. For many of the charter schools, even after the follow-up communication, CDE staff did not receive sufficient documentation. A summary of the request from each charter school is provided below and in Attachment 1.

Nevada City Home Study Charter is requesting a 100 percent determination of funding with the consideration of the charter school's mitigating circumstances. The charter school reported expenditures of 66.99 percent on certificated staff costs; however, it reported expenditures of 79.41 percent on instruction and related services, which qualifies the charter school for an 85 percent determination of funding. The charter school's mitigating circumstances request includes its small size and a one-time spending freeze. CDE staff reviewed all of the information provided by the charter school in its initial request and in subsequent communications. The school's governing board imposed a spending freeze in the last quarter of fiscal year (FY) 2011–12. Documentation provided by the school supports the claim that the amount typically spent on instruction in the fourth quarter would have allowed the school to meet the spending level for full funding.

Capistrano Connections Academy is requesting a 100 percent determination of funding with the consideration of the charter school's mitigating circumstances. The charter school reported expenditures of 40.51 percent on certificated staff costs and expenditures of 84.25 percent on instruction and related services, which qualifies the charter school for a 100 percent determination of funding. Therefore, no mitigation is required. However, the school is requesting for the duration of the funding determination period to spend 35 percent for certificated staff compensation and 75 percent for instruction and related services; however, current law requires spending 40 percent and 80 percent, respectively. This is not the vehicle for this type of request.



Santa Barbara Charter School is requesting a 100 percent determination of funding with the consideration of the charter school's mitigating circumstances. The charter school reported expenditures of 53.09 percent on certificated staff costs; however, it reported expenditures of 78.52 percent on instruction and related services and allowable facilities costs, which qualifies the charter school for an 85 percent determination of funding. The charter school's mitigating circumstances request includes reserves and donated funds. CDE staff reviewed all of the information provided by the charter school in its initial request and in subsequent communications. In anticipation of a transition to direct funding in FY 2013–14, the charter school set aside funds to increase its reserves for administrative expenses and anticipated special education costs. These funds could have been used to support instruction in FY 2011–12, rather than held in anticipation of shifting from local to direct funding in FY 2013–14.

Mountain Oaks School is requesting a 100 percent determination of funding with the consideration of the charter school's mitigating circumstances. The charter school reported expenditures of 53.62 percent on certificated staff costs; however, it reported expenditures of 74.31 percent on instruction and related services and allowable facilities costs, which qualifies the charter school for an 85 percent determination of funding. The charter school's mitigating circumstances request identifies deferrals and reserves for the possible failure of Proposition 30. CDE staff reviewed all of the information provided by the charter school with the initial request and in subsequent communications. Insufficient documentation and information was submitted to support why the deferrals were a one-time or unique circumstance, or describe specific expenditures that would meet those criteria. Also, the charter school held a reserve and provided no explanation why these funds were not used to support instruction in FY 2011–12, rather than being held for the outcome of Proposition 30, which occurred in FY 2012–13.

Opportunities for Learning – Santa Clarita is requesting an 85 percent determination of funding with the consideration of the charter school's mitigating circumstances. The charter school reported expenditures of 39.25 percent on certificated staff costs and expenditures of 72.42 percent on instruction and related services and allowable facilities costs, which qualifies the charter school for a 70 percent determination of funding. The charter school's mitigating circumstances request includes consideration of increased fixed costs for rent, utilities, and maintenance, increased instructional support staff costs, unreimbursed instructional support for special education costs, increased facilities improvement costs for enrollment growth, new computer equipment purchases, increased online course program development costs, increased enrichment program costs, and deferrals. CDE staff reviewed all of the information provided by the charter school in its initial request and in subsequent communications. While some of the expenditures provided appear to be one-time or unique, the actual costs provided in the supporting documentation were minimal and would not change the recommended funding determination. Also, no documentation was provided to explain why the charter school's budget provided for a large reserve which could have been used to support instruction.

Monterey County Home Charter School is requesting a 100 percent determination of funding with the consideration of the charter school's mitigating circumstances. The charter school reported expenditures of 93.35 percent on certificated staff costs; however, it reported expenditures of 62.63 percent on instruction and related services costs, which qualifies the charter school for a 70 percent determination of funding. The charter school's mitigating circumstances request is for reserves. CDE staff reviewed all of the information provided by the charter school in its initial request and in subsequent communications. Insufficient documentation and information was submitted to support why the reserves for economic uncertainties and the purchase of instructional materials were a one-time or unique circumstance. The charter school held a large reserve for economic uncertainties and funds set aside for instructional materials, which could have been used to support instruction in FY 2011–12, rather than being held for expenditures in a subsequent fiscal year.

Opportunities for Learning – Baldwin Park is requesting an 85 percent determination of funding with the consideration of the charter school's mitigating circumstances. The charter school reported expenditures of 39.89 percent on certificated staff costs and expenditures of 77.26 percent on instruction and related services and allowable facilities costs, which qualifies the charter school for a 70 percent determination of funding. The charter school's mitigating circumstances request includes consideration of increased fixed costs for rent, utilities and maintenance, new computer equipment purchases, increased online course program development costs, increased supplemental enrichment program costs, and deferrals. CDE staff reviewed all of the information provided by the charter school in its initial request and in subsequent communications. While some of the expenditures provided appear to be one-time or unique, the actual costs provided in the supporting documentation were minimal and would not change the recommended funding determination. Also, no documentation was provided to explain why the charter school's budget provided for a large reserve which could have been used to support instruction.

California Virtual Academy @ Jamestown is requesting a 100 percent determination of funding with the consideration of the charter school's mitigating circumstances. The charter school reported expenditures of 86.25 percent on instruction and related services costs; however, it reported expenditures of 37.74 percent on certificated staff costs, which qualifies the charter school for a 70 percent determination of funding. The charter school's mitigating circumstances request includes spending on certificated staff expenditures at a level lower than the regulatory requirement, exclusion of one-time revenues, and deferrals. CDE staff reviewed all of the information provided by the charter school in its initial request and in subsequent communications. Insufficient documentation and information was submitted to support why the deferrals were a one-time or unique circumstance. The charter school did not provide supporting documentation to exclude the federal Education Jobs Funds or explain why these funds were not used for certificated staff or other instructional expenses. The school is requesting for the duration of the funding determination period to spend 35 percent for certificated staff compensation when current law requires spending at least 40 percent. This is not the vehicle for this type of request.

Crossroads Charter School is requesting a 100 percent determination of funding with the consideration of the charter school's mitigating circumstances. The charter school reported expenditures of 46.98 percent on certificated staff costs; however, it reported expenditures of 66.28 percent on instruction and related services and allowable facilities costs, which qualifies the charter school for a 70 percent determination of funding. The charter school's mitigating circumstances request includes exclusion of one-time revenues, and reserves for the possible failure of Proposition 30 and deferrals. CDE staff reviewed all of the information provided by the charter school in its initial request and in subsequent communications. Insufficient documentation and information was submitted to support why the deferrals were a one-time or unique circumstance. The charter school did not provide supporting documentation to exclude the federal Education Jobs Funds or explain why these funds were not used for certificated staff or other instructional expenses in FY 2011–12. Insufficient documentation and information was submitted to support why the deferrals were a one-time or unique circumstance. Also, the charter school held a significant reserve which could have been used to support instruction in FY 2011–12, rather than being held for the outcome of Proposition 30, which occurred in FY 2012–13.

SAC Academic & Vocational Academy is requesting a 100 percent determination of funding with the consideration of the charter school's mitigating circumstances. The charter school reported expenditures of 46.09 percent on certificated staff costs; however, it reported expenditures of 69.17 percent on instruction and related services and allowable facilities costs, which qualifies the charter school for a 70 percent determination of funding. The charter school's mitigating circumstances request includes reserves for the possible failure of Proposition 30, high growth in student enrollment, and deferrals. CDE staff reviewed all of the information provided by the charter school in its initial request and in subsequent communications. Insufficient documentation and information was submitted to support why the deferrals were a one-time or unique circumstance. Also, the charter school held a significant reserve which could have been used to support instruction in FY 2011–12, rather than being held for the outcome of Proposition 30, which occurred in FY 2012–13.

Camino Science and Natural Resources Charter School is requesting a 100 percent determination of funding with the consideration of the charter school's mitigating circumstances. The charter school reported expenditures of 55.35 percent on certificated staff costs; however, it reported expenditures of 73.33 percent on instruction and related services and allowable facilities costs, which qualifies the charter school for an 85 percent determination of funding. The charter school's mitigating circumstances request includes funding cuts, deferrals, and consideration that the charter school was in its first year of operation. CDE staff reviewed all of the information provided by the charter school in its initial request and in subsequent communications. As a newly operational charter school, the documentation submitted supports the claim that in its first year of operation, the deferrals constrained the charter school's cash flow which limited its spending ability to meet the full-funding thresholds.

Hope Academy Charter is requesting a 100 percent determination of funding with the consideration of the charter school's mitigating circumstances. The charter school reported expenditures of 29.26 percent on certificated staff costs and expenditures of 49.53 percent on instruction and related services and allowable facilities costs, which makes the charter school ineligible for a determination of funding. The charter school's mitigating circumstances request includes funding cuts, deferrals, limited cash on hand, and consideration that the charter school was in its first year of operation. CDE staff reviewed all of the information provided by the charter school in its initial request and in subsequent communications. As a newly operational charter school, the documentation submitted supports the claim that in its first year of operation, the deferrals constrained the charter school's cash flow which limited its spending ability to meet the full-funding thresholds.

Stockton High is requesting a 100 percent determination of funding with the consideration of the charter school's mitigating circumstances. The charter school reported expenditures of 55.96 percent on certificated staff costs; however, it reported expenditures of 66 percent on instruction and related services and allowable facilities costs, which qualifies the charter school for a 70 percent determination of funding. The charter school's mitigating circumstances request is to consider its debt service toward instruction. CDE staff reviewed all of the information provided by the charter school in its initial request and in subsequent communications. The charter school had planned to spend funds to hire instructional coaches and costs associated with relocating to a new facility. However, the school elected to instead use the funds to pay off their loan debt.

The funding determination and mitigating circumstances requests are provided in Attachments 2 through 27 of Agenda Item 2 on the ACCS April 10, 2013, Meeting Notice for the ACCS Web page located at <http://www.cde.ca.gov/be/cc/cs/accsnotice041013.asp>.

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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The SBE is responsible for approving a determination of funding to establish eligibility for apportionment funding for charter schools that offer nonclassroom-based instruction. The CDE notes that this request is a recurring action item for the SBE.

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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If approved, the charter schools listed in Attachment 1 would receive apportionment funding under the charter school block grant funding model. Funding is based on the statewide average funding levels for each grade span (kindergarten through grade three, grades four through six, grades seven through eight, and grades nine through twelve). Calculations use revenue limits for unified, elementary, and high school districts.

## **ATTACHMENTS**

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Attachment 1: Advisory Commission on Charter Schools and California Department of Education Recommendation Determination of Funding Fiscal Year 2013-14 through 2017-18 (4 Pages)

**Advisory Commission on Charter Schools and California Department of Education Recommendation Determination of Funding Fiscal Year 2013-14 through 2017-18**

**Table 1: ACCS and CDE Recommendation Determination of Funding Fiscal Year 2013–14 through 2017–18**

County-District-School Code	Charter Number and First Year of Operation	Charter Name	Spending on Certificated Staff Compensation^	Spending on Instructional Costs^	Funding Determination and Years Requested by Charter School With Mitigating Circumstances	Funding Determination Without Mitigating Circumstances (5 CCR Section 11963.4)	CDE Recommendation Funding Determination and Years	Mitigating Circumstances Provided	2010-11 Base API	2010-11 API State-wide	2011-12 Base API	2011-12 API State-wide
29-66340-6112593	0069 1994–95	Nevada City Home Study Charter	66.99%	79.41%	100% 5 Years	85%	100% 5 Years	Yes	836	7	879	8

^–Note: Spending percentages correspond to the charter school's funding determination request as originally submitted to the California Department of Education.

**Table 2: ACCS and CDE Recommendation Determination of Funding Fiscal Year 2013–14 through 2016–17**

County-District-School Code	Charter Number and First Year of Operation	Charter Name	Spending on Certificated Staff Compensation	Spending on Instructional Costs^	Funding Determination and Years Requested by Charter School With Mitigating Circumstances	Funding Determination Without Mitigating Circumstances (5 CCR Section 11963.4)	CDE Recommendation Funding Determination and Years	Mitigating Circumstances Provided	2010-11 Base API	2010-11 API State-wide	2011-12 Base API	2011-12 API State-wide
30-66464-0106765	0664 2004–05	Capistrano Connections Academy	40.51%	84.25%	100% 5 Years	100%	100% 4 Years	No	794	5	782	7
19-65136-1996263	0214 1999–00	Opportunities for Learning – Santa Clarita	39.25%	72.42%	85% 5 Years	70%	70% 4 Years	No	703	4	697	3
27-10272-2730232	0327 2000–01	Monterey County Home Charter School*	93.35%	62.63%	100% 5 Years	70%	70% 4 Years	No	654	2	671	2
19-64287-1996479	0402 2001–02	Opportunities for Learning – Baldwin Park	39.89%	77.26%	85% 5 Years	70%	70% 4 Years	No	696	3	699	3

\* The CDE has been notified of a possible challenge by this school, per 5 CCR Section 11963.4. If the school amends their determination of funding request and /or provides additional supporting documentation to challenge the ACCS recommendation to the SBE, ACCS must then act at its next regular meeting in June, 2013, to determine whether or not to modify its recommendation to the State Board, pertaining to this school's funding determination. Once the ACCS hears this challenge under 5 CCR Section 11963.4, it may or may not modify its recommendation to the SBE. The SBE would then act on the funding determination request at its next regular Board meeting in July, 2013.

**Advisory Commission on Charter Schools and California Department of Education Recommendation Determination of Funding Fiscal Year 2013-14 through 2017-18**

**Table 3: ACCS and CDE Recommendation Determination of Funding Fiscal Year 2013–14 through 2015–16**

County-District-School Code	Charter Number and First Year of Operation	Charter Name	Spending on Certificated Staff Compensation	Spending on Instructional Costs^	Funding Determination and Years Requested by Charter School With Mitigating Circumstances	Funding Determination Without Mitigating Circumstances (5 CCR Section 11963.4)	CDE Recommendation Funding Determination and Years	Mitigating Circumstances Provided	2010-11 Base API	2010-11 API State-wide	2011-12 Base API	2011-12 API State-wide
09-61846-0123125	1150 2011–12	Camino Science and Natural Resources Charter School	55.35%	73.33%	100% 3 Years	85%	100% 3 Years	Yes	Not Required*		Not Required*	

\*–Not Required: Charter school request is for less than five years. *EC* Section 47612.5(d)(2) requires a determination of five years for a charter school that has achieved a rank of six or greater on the API for the two years immediately prior to receiving a determination of funding.

**Table 4: ACCS and CDE Recommendation Determination of Funding Fiscal Year 2013–14 through 2014–15**

County-District-School Code	Charter Number and First Year of Operation	Charter Name	Spending on Certificated Staff Compensation	Spending on Instructional Costs^	Funding Determination and Years Requested by Charter School With Mitigating Circumstances	Funding Determination Without Mitigating Circumstances (5 CCR Section 11963.4)	CDE Recommendation Funding Determination and Years	Mitigating Circumstances Provided	2010-11 Base API	2010-11 API State-wide	2011-12 Base API	2011-12 API State-wide
36-67777-0124214	1322 2011–12	Hope Academy Charter	29.26%	49.53%	100% 2 Years	Denial	100% 2 Years	Yes	Not Required*		Not Required*	
39-68676-0119784	1084 2009–10	Stockton High	55.96%	66%	100% 2 Years	70%	70% 2 Years	No	Not Required*		Not Required*	

\*–Not Required: Charter school request is for less than five years. *EC* Section 47612.5(d)(2) requires a determination of five years for a charter school that has achieved a rank of six or greater on the API for the two years immediately prior to receiving a determination of funding.

**Advisory Commission on Charter Schools and California Department of Education Recommendation Determination of Funding Fiscal Year 2013-14 through 2017-18**

**Table 5: CDE Recommendation Determination of Funding Fiscal Year 2013–14 through 2016–17**

County-District-School Code	Charter Number and First Year of Operation	Charter Name	Spending on Certificated Staff Compensation^	Spending on Instructional Costs^	Funding Determination and Years Requested by Charter School With Mitigating Circumstances	Funding Determination Without Mitigating Circumstances (5 CCR Section 11963.4)	CDE Recommendation Funding Determination and Years	Mitigating Circumstances Provided	2010-11 Base API	2010-11 API State-wide	2011-12 Base API	2011-12 API State-wide
42-76786-6111603	0020 1993–94	Santa Barbara Charter School	53.09%	78.52%	100% 5 Years	85%	85% 4 Years	No	819	6	790	4
05-10058-0530154	0527 2001–02	Mountain Oaks School	53.62%	74.31%	100% 5 Years	85%	85% 4 Years	No	692	3	723	4
55-72363-0100099	0495 2002–03	California Virtual Academy @ Jamestown	37.74%	86.25%	100% 5 Years	70%	70% 4 Years	No	741	2	723	2
16-63875-0101717	0571 2003–04	Crossroads Charter School	46.98%	66.28%	100% 5 Years	70%	70% 4 Years	No	630	ASAM	633	ASAM
34-76505-0114272	0878 2007–08	SAC Academic & Vocational Academy	46.09%	69.17%	100% 5 Years	70%	70% 4 Years	No	526	ASAM	572	ASAM

^–Note: Spending percentages correspond to the charter school's funding determination request as originally submitted to the California Department of Education.



**Advisory Commission on Charter Schools and California Department of Education Recommendation Determination of Funding Fiscal Year 2013-14  
through 2017-18**

**Table 6: ACCS Recommendation Determination of Funding Fiscal Year 2013–14 through 2016–17**

County-District-School Code	Charter Number and First Year of Operation	Charter Name	Spending on Certificated Staff Compensation^	Spending on Instructional Costs^	Funding Determination and Years Requested by Charter School With Mitigating Circumstances	Funding Determination Without Mitigating Circumstances (5 CCR Section 11963.4)	ACCS Recommendation Funding Determination and Years	Mitigating Circumstances Provided	2010-11 Base API	2010-11 API State-wide	2011-12 Base API	2011-12 API State-wide
42-76786-6111603	0020 1993–94	Santa Barbara Charter School	53.09%	78.52%	100% 5 Years	85%	100% 4 Years	Yes	819	6	790	4
05-10058-0530154	0527 2001–02	Mountain Oaks School	53.62%	74.31%	100% 5 Years	85%	100% 4 Years	Yes	692	3	723	4
55-72363-0100099	0495 2002–03	California Virtual Academy @ Jamestown	37.74%	86.25%	100% 5 Years	70%	100% 4 Years	Yes	741	2	723	2
16-63875-0101717	0571 2003–04	Crossroads Charter School	46.98%	66.28%	100% 5 Years	70%	100% 4 Years	Yes	630	ASAM	633	ASAM
34-76505-0114272	0878 2007–08	SAC Academic & Vocational Academy	46.09%	69.17%	100% 5 Years	70%	100% 4 Years	Yes	526	ASAM	572	ASAM

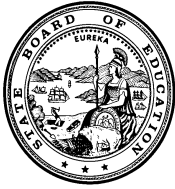
^–Note: Spending percentages correspond to the charter school's funding determination request as originally submitted to the California Department of Education.



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 13**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### SUBJECT

Appeal of Actions by the Orange County Committee on School District Organization to Disapprove a Petition to Transfer Territory from the Orange Unified School District to the Saddleback Valley Unified School District

- ☒ Action
- ☒ Information
- ☒ Public Hearing

#### SUMMARY OF THE ISSUE(S)

A petition to transfer the Silverado/Modjeska Canyon area of the Orange Unified School District (USD) to the Saddleback Valley USD (signed by at least 25 percent of the voters in the area) was submitted to the Orange County Committee on School District Organization (County Committee). On October 20, 2010, the County Committee took actions that led to disapproval of the transfer petition. The chief petitioners subsequently appealed those actions to the California State Board of Education (SBE) pursuant to California *Education Code (EC)* Section 35710.5.

#### RECOMMENDATION

The CDE recommends that the SBE deny the appeal and affirm the County Committee's disapproval of the territory transfer proposal based on the determination that there are no compelling "local educational needs and concerns" to justify approval of the territory transfer.

#### BRIEF HISTORY OF KEY ISSUES

The County Committee received a petition, signed by at least 25 percent of the voters in the unincorporated community of Silverado, to transfer that community from the Orange USD to the Saddleback Valley USD. The primary reasons for the proposed transfer of territory, as stated by the petitioners, are the closer proximity of residents to Saddleback Valley USD and the shared community interests of the Silverado community with the Saddleback Valley USD. Additionally, the Orange USD owns a surplus school site (Silverado School) located at the mouth of the Silverado Canyon and the district's decision to close that school in 2009 appears to be a contributing factor in the community support for the petition.

The Silverado Community is approximately 60 square miles, located in the Santa Ana Mountains of Orange County, and includes the Silverado, Black Starr, Ladd, Williams,

and Modjeska Canyons. The majority of the territory is within the boundaries of the Cleveland National Forest. At the time the petition was considered, there were 1,167 voters registered in the area and approximately 140 public school students attending either the Orange USD or the Saddleback Valley USD on interdistrict transfers.

The County Committee found that the proposal failed to substantially meet two of the required nine conditions of California *Education Code (EC)* Section 35753—Condition 3 (equitable division of property) and Condition 9 (no substantial negative effect on fiscal status). The County Committee determined that, pursuant to *EC* Section 35710, it could not approve the territory transfer proposal since it had determined that these two required conditions were not substantially met. The governing board of the Orange USD opposes the proposed transfer of territory while the Saddleback Valley USD board has not taken a formal position of opposition or support.

Chief petitioners or affected school districts may appeal County Committee actions on territory transfers for issues of noncompliance with the provisions of *EC* sections 35705, 35706, 35709, 35710, and 35753(a). The chief petitioners (appellants) submitted their appeal to the Orange County Superintendent of Schools (County Superintendent). The County Superintendent subsequently transmitted the appeal, along with the complete administrative record of the County Committee action, to the SBE. The appellants contend that the County Committee failed to consider detailed information when taking actions to determine that the proposed territory transfer did not substantially meet Conditions 3 and 9; and, subsequently, erred in denying the proposal.

### **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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The SBE has not taken any action regarding this specific appeal or the territory transfer proposal contained within the appeal. The SBE has affirmed the action of the county committee in nine of the previous ten territory transfer appeals it has considered.

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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There will be no cost to any local or state agency if the SBE affirms the action of the County Committee to disapprove the appeal. If the SBE reverses the action of the County Committee (i.e., approves the transfer of territory) and the Orange USD maintains its opposition to the proposed transfer, there will be local costs for an election. Costs will depend upon the size of election area (which would be established by the SBE) and the type of election (e.g., stand-alone special election, mail ballot election). The Orange County Registrar of Voters estimates that the cost per voter could range from \$3.16 to \$3.56 for a stand-alone special election to \$2.50 to \$3.00 for a mail ballot election (plus \$8,500 for the preparation of the sample ballot in either election).

### **ATTACHMENT(S)**

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Attachment 1: Analysis of Statement of Reasons and Factual Evidence (19 pages)

## **ANALYSIS OF STATEMENT OF REASONS AND FACTUAL EVIDENCE**

### **Appeal of a Decision of the Orange County Committee on School District Organization to Disapprove a Transfer of Territory from the Orange Unified School District to the Saddleback Valley Unified School District in Orange County**

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#### **1.0 RECOMMENDATION**

The California Department of Education (CDE) recommends that the California State Board of Education (SBE) deny the appeal and affirm the Orange County Committee on School District Organization (County Committee) disapproval of the territory transfer proposal based on the determination that there are no compelling “local educational needs and concerns” to justify approval of the territory transfer.

#### **2.0 BACKGROUND**

The County Committee received a petition, signed by at least 25 percent of the voters in the unincorporated community of Silverado, to transfer that community from the Orange Unified School District (USD) to the Saddleback Valley USD. The primary reasons for the proposed transfer of territory, as stated by the petitioners, are:

- Schools in the Saddleback Valley USD are closer than are the schools in the Orange USD.
- A number of Silverado community students already attend school (on interdistrict transfers) in the Saddleback Valley USD.
- Saddleback Valley USD is more philosophically compatible to the Silverado community and there are more shared community interests.
- Saddleback Valley USD is a better district. It scores higher on the Academic Performance Index (API) than does the Orange USD, and Orange USD is a Program Improvement (PI) district.

The Silverado community is approximately 60 square miles, located in the Santa Ana Mountains of Orange County, and includes the Silverado, Black Starr, Ladd, Williams, and Modjeska Canyons. The majority of the territory is within the boundaries of the Cleveland National Forest. At the time the petition was submitted, there were 1,167 voters registered in the area and approximately 140 public school students attending either the Orange USD or the Saddleback Valley USD on interdistrict transfers.

The Orange USD currently owns a surplus school site (Silverado School) located at the mouth of the Silverado Canyon. Before closing prior to the 2009–10 school year, the Silverado School housed many of the students residing in the proposed transfer area. During the 10 years prior to the closing, there were never more than 112 students enrolled at Silverado School, and enrollment had dropped to 74 the year prior to the Orange USD closing the school. That decision appears to be a contributing factor in community support of the proposal to transfer the territory.

### **3.0 ACTIONS OF THE COUNTY COMMITTEE**

The County Committee held two public hearings for the proposed transfer of territory on August 4, 2010—one in the Orange USD and one in the Saddleback Valley USD. The County Committee also considered information from the affected school districts and petitioners at a special meeting held on October 20, 2010. The governing board of the Orange USD opposes the proposed transfer of territory while the Saddleback Valley USD board has not taken a formal position (details regarding the districts' positions are in section 4.0 of this attachment). Public comments from community members primarily were supportive of the proposed territory transfer, with the primary reasons for support being: (1) hope that the Silverado School could be reopened by the Saddleback Valley USD, (2) perception that the Saddleback Valley USD is an academically higher performing school district than the Orange USD, and (3) belief that the Orange USD has not been responsive to the residents of the Silverado community.

Under the California *Education Code (EC)*, the County Committee had the following options after holding the public hearings:

- If the County Committee determined that all nine conditions of *EC* Section 35753(a) are substantially met, it could approve the petition (though not required to do so), and would then notify the Orange County Superintendent of Schools (County Superintendent) to call an election on the proposed transfer (an election is required when an affected district opposes an approved transfer of territory petition).
- The County Committee could disapprove the petition to transfer territory for other concerns even if it determines that all conditions of *EC* Section 35753(a) have been met.
- If the County Committee determined that all nine conditions of *EC* Section 35753(a) are not substantially met, it would be required to disapprove the petition to transfer territory.

The County Committee failed to find all nine *EC* Section 35753(a) conditions substantially met—the following two required conditions did not receive sufficient support from the County Committee:

- Condition 3: The proposal will result in an equitable division of property and facilities of the original district or districts (3 affirmative votes, 7 negative votes).
- Condition 9: The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization (2 affirmative votes, 8 negative votes).

The County Committee then noted that, since it had determined that two of the required *EC* Section 35753(a) conditions are not substantially met, it had no authority to approve the territory transfer.

Chief petitioners or affected school districts may appeal County Committee actions on territory transfers for issues of noncompliance with the provisions of *EC* sections 35705, 35706, 35709, 35710, and 35753(a). The chief petitioners (appellants) submitted such an appeal to the County Superintendent. The County Superintendent subsequently transmitted the appeal, along with the complete administrative record of the County Committee action, to the SBE.

#### **4.0 POSITIONS OF AFFECTED SCHOOL DISTRICTS**

The governing board of the Orange USD opposes the proposed transfer of territory while the Saddleback Valley USD board has not taken a formal position.

##### **4.1 Orange USD**

At public hearings for the proposal, staff and legal counsel for the Orange USD provided the following reasons for district opposition to the transfer:

- The proposal does not meet Condition 3 of *EC* Section 35753 (equitable division of property and facilities): The Orange USD currently owns a closed school site in the area proposed for transfer—the Silverado School. If the territory is transferred, the Orange USD would lose a valuable income property (lease or sale revenue) as the closed school represents 15 percent of the district's lease revenue and is appraised at \$3.4 million.
- The proposal does not meet Condition 7 of *EC* Section 35753 (no substantial increase in school facility costs): The Saddleback Valley USD is repaying a General Obligation (GO) Bond, while the Orange USD is not. The transfer will result in an increase in property taxes for the property owners in the area proposed for transfer (\$34 per \$100 thousand in assessed valuation [AV]).
- The proposal does not meet Condition 9 of *EC* Section 35753 (no significant negative effect on district finances): The loss of 15 percent of the district's lease revenue will have a significant

negative effect on the district and its student population.

- The Orange USD already has in place an interdistrict attendance agreement with the Saddleback Valley USD.
- The Orange USD has a mitigation agreement with the Irvine Company to build a new school in the Irvine Lake area as part of potential residential development. (Irvine Lake is approximately four miles from the Silverado School location.)

#### **4.2 Saddleback Valley USD**

The governing board of the Saddleback Valley USD has taken a neutral position on the territory transfer. However, the superintendent of the district made the following observations during the public hearings:

- The Saddleback Valley USD and its governing board have been in conversations with the petitioners and the Orange USD regarding the proposed transfer of territory. The Saddleback Valley USD has been granting interdistrict attendance agreements to accommodate students from the transfer area.
- The Saddleback Valley USD does not offer transportation to the canyon areas. If the territory is transferred, the district will not offer transportation due to budget concerns.
- The Saddleback Valley USD is a declining enrollment district and has been, and will continue to be, in the process of closing schools.
- The Saddleback Valley USD has a GO bond that property owners repay at a cost of approximately \$34 per \$100 thousand in AV.

#### **5.0 REASONS FOR THE APPEAL**

Chief petitioners or school districts, pursuant to *EC* Section 35710.5, may appeal a County Committee decision on territory transfers for issues of noncompliance with the provisions of *EC* sections 35705, 35706, 35709, and 35710.

The appellants contend that the County Committee did not consider sufficient information to support its determination that two of the *EC* Section 35753 conditions were not substantially met and, subsequently, erred when it failed to approve the territory transfer. The appellants base their claim on the following:

- The County Committee did not seek verification of information used to make its determination that two of the nine required *EC* Section 35753 conditions were not substantially met.



- No arbitration on the disposition of real property (the Silverado School) occurred.
- The SBE has authority to approve a reorganization proposal when it is determined that one or more of the required nine conditions in *EC* Section 35753 are not substantially met; and exceptional circumstances exist in the proposed territory transfer.

## 6.0 CDE RESPONSES TO THE APPEAL

The courts (*San Rafael School District v. State Board of Education* [1999] 73 Cal.App.4th 1018, 1027) have determined that the SBE may conduct a *de novo* review of the provisions of *EC* Section 35753 in any territory transfer appeal. Before responding to the appellants' stated reasons for the appeal, the CDE will examine the following four conditions of *EC* Section 35753 (that the County Committee determined were substantially met by the territory transfer proposal):

- Adequate size of affected districts
- Community identity
- Promotion of racial/ethnic segregation
- Effects on education performance

The two *EC* Section 35753 conditions that the County Committee determined were not substantially met will be examined in the context of addressing the reasons for the appeal submitted by the chief petitioners.

### 6.1 *EC* Section 35753(a)(1): The reorganized districts will be adequate in terms of number of pupils enrolled.

Both the Orange USD and the Saddleback Valley USD have over 30,000 students enrolled according to the 2011–12 California Basic Educational Data System (CBEDS). The loss or gain of approximately 140 students will have minimal effect on either district and, clearly, this condition is substantially met for the territory transfer proposal.

However, the SBE may want to consider that the Orange USD has a recent history of stable enrollment, while the Saddleback USD currently is in period of declining enrollment (see following table).

Historical Enrollment for Each Affected District

Year	Orange	Saddleback Valley
2007–08	30,127	33,558
2008–09	30,170	32,936
2009–10	30,210	32,387
2010–11	30,373	31,724
2011–12	30,136	30,885

Source: CBEDS

**6.2 EC Section 35753(a)(2): The districts are each organized on the basis of a substantial community identity.**

The appellants make two primary points to support their claim that the proposed transfer area has a greater sense of community identity with the Saddleback Valley USD than with the Orange USD:

- Saddleback Valley USD schools are closer to the proposed transfer area than are the schools of the Orange USD.
- The proposed transfer area is more philosophically compatible with the Saddleback Valley USD than with the Orange USD.

The following table compares the distances from the proposed transfer area to the schools that, according to the appellants, are the ones students in the transfer area attend:

Reported Distances from Transfer Area to Schools

School	District	Grades	Enrollment*	Distance**
<b>Elementary</b>				
Chapman Hills	Orange USD	K-6	477	8.1
McPherson Magnet	Orange USD	K-8	909	11.1
Portola Hills	Saddleback Valley USD	K-6	801	6.0
Robinson	Saddleback Valley USD	K-6	717	11.2
Trabuco	Saddleback Valley USD	K-6	63	9.5
<b>Middle/Intermediate</b>				
McPherson Magnet	Orange USD	K-8	909	11.1
Santiago Charter	Orange USD	7-8***	971	12.0
Serrano****	Saddleback Valley USD	7-8	1,368	11.4
Rancho Santa Margarita****	Saddleback Valley USD	7-8	1,556	12.0
<b>High</b>				
El Modena	Orange USD	9-12	2,207	12.4
Trabuco Hills	Saddleback Valley USD	9-12	3,195	8.5

\* 2011–12 CBEDS

\*\* Distance in miles from the closed Silverado School to the listed school.

\*\*\* One sixth grade student reported in enrollment.

\*\*\*\* Appellants list no middle schools in Saddleback USD that are attended by students from the proposed transfer area. Listed schools are the two schools closest to the Silverado School.

The comparison of distances to the schools attended by the students residing in the community is not a compelling argument. Although the high school in Saddleback Valley USD is about four miles closer than the Orange USD counterpart (8.5 versus 12.4), there are no significant overall differences for the elementary and middle/intermediate schools. The CDE also notes that the Orange USD currently provides busing to the area. The superintendent of the Saddleback Valley USD stated during the public hearings held by the County Committee that his district does not provide transportation and would not even if the territory were transferred. Although appellants note that students as young as five years old face bus rides of up to one and a half hours (one-way) to attend Orange USD schools, bus rides would not even be an option if the territory was transferred. According to information submitted by Orange USD, approximately two-thirds of all students from the area who attend Orange USD schools ride the buses.

Appellants support their claim that the proposed transfer area is more philosophically compatible with the Saddleback Valley USD than with the Orange USD by noting the unique community issues of the canyons. The Trabuco Canyon, which is the furthest south of the canyons, already is located in the Saddleback Valley USD. The canyon areas already work together on animal, fire, and emergency communication issues.

The evidence provided by the appellants regarding their philosophical compatibility with Saddleback Valley USD only demonstrates philosophical compatibility among the canyons in the area. The evidence supports (from a community identity perspective) combining the canyons—however, nothing presented supports the appellants' claim that they have better community identity with the Saddleback Valley USD than with the Orange USD.

It is the opinion of CDE that, while the general issue of community identity is substantially met by the territory transfer, neither point raised by the appellants supports a finding that the proposed transfer area has a greater degree of community identity with the Saddleback Valley USD than with the Orange USD.

**6.3 EC Section 35753(a)(4): The reorganization of the districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.**

Historically, the percentage of minority students enrolled has been higher in the Orange USD than in the Saddleback Valley USD. Although the difference has decreased over the years, the table below demonstrates that there still is a significantly greater percentage of minority students in the Orange USD.

#### Historical White Subgroup Enrollment for Districts

Year	Orange USD	Saddleback Valley USD
2007–08	36.8%	61.2%
2008–09	35.7%	59.6%
2009–10	34.5%	56.6%
2010–11	33.6%	55.1%
2011–12	33.1%	53.5%

Source: CBEDS

The approximately 140 students in the proposed transfer area would have insignificant effects on the percentages of racial/ethnic subgroup enrollment in either affected district. The following table displays enrollment data for the two districts and the Silverado School from the 2008–09 school-year (the last year that the Silverado School was operational).

#### 2008–09 Student Subgroup Enrollment

School/District	Enrollment	Asian	Hispanic	White	Other
Silverado school	74	0.0%	12.2%	86.5%	1.3%
Orange USD	30,170	9.8%	46.1%	35.7%	8.4%
Saddleback Valley USD	32,936	7.4%	24.9%	59.6%	8.1%

Source: 2008–09 CBEDS

The data in the above table is meant to be illustrative only and is not meant to be a statistical comparison of the racial/ethnic composition of the proposed transfer area to the affected school districts. Not all students enrolled in the Silverado School resided in the transfer area, and not all transfer area students were enrolled in Silverado School. However, it is the opinion of the CDE that Silverado School's data provides the best illustration of the school-age population in the Silverado community. Data from the 2008–09 school-year is used since that is the last year that the Silverado School was open. This data suggests that the proposed transfer area contains a smaller percentage of minority students than does either affected school district. However, given the relatively small number of students in the transfer area, the CDE finds that a transfer of this area would not promote racial or ethnic discrimination or segregation.

#### **6.4 EC Section 35753(a)(6): The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.**

One of the reasons cited by the petitioners for the transfer of territory is that the Saddleback Valley USD is a “better” district. The petitioners noted that Orange USD, under Adequate Yearly Progress (AYP), became a Program

Improvement (PI) district in 2009 and that Saddleback Valley USD performs better based on the Academic Performance Index (API). The following table displays 2011–12 performance data for the two affected school districts.

2011–12 Accountability Performance Data

Accountability Measure	Orange USD	Saddleback Valley USD
<b>API</b>		
<b>API Base</b>	820	860
<b>API Growth</b>	836	866
<b>Percent of Schools making API Growth Targets</b>	84.2%	59.4%
<b>Graduation Rate</b>	90.7%	94.2%
<b>In PI?</b>	Yes, Year 3	No

Source: Educational Data Partnership

The 2008–09 API score for the Silverado School was 836, higher than the district-wide API of Orange USD of 797 and lower than the Saddleback Valley USD district-wide API of 848. Again, the preceding is illustrative and is not meant to be a valid comparison (for the reasons cited in Section 6.3).

The percentage of students eligible for special programs such as English Language Learners (ELL), Free/Reduced Price Meals (FRPM), and Compensatory Education can affect educational programming as well as district- and school-wide academic performance. The following table displays 2008–09 Special Programs data for the Silverado School and the affected school districts.

2008–09 Special Programs Data

School/District	Enrollment	Percent ELL	Percent in FRPM Program	Percent in Compensatory Education*
Silverado school	74	8.1%	16.2%	0.0%
Orange USD	30,170	24.0%	34.6%	32.2%
Saddleback Valley USD	32,936	12.4%	15.8%	6.7%

Source: Educational Data Partnership

\* Percent of students participating in the federal Title I and/or the state Economic Impact Aid/State Compensatory Education (EIA/SCE) program.

Although not for purposes of statistical comparison, the data presented above suggests that students in the Silverado School (in 2008–09) are far less likely to be enrolled in the special programs listed in the above table than are students throughout the Orange USD.

Although it appears that students in the area proposed for transfer score (on average) higher on measures of academic performance and are less likely to be in enrolled special programs than students, it is the opinion of CDE that the removal of such a relatively small group of these students would have little effect on the educational performance of the Orange USD.

The CDE response to the appeal now turns to an examination of the reasons for the appeal that are provided by the appellants.

**6.5 The County Committee did not seek verification of information it used to make its determination that two of the required nine conditions in EC Section 35753 were not substantially met.**

The CDE agrees with the appellants' concerns that the County Committee "did not seek verification of information it used" to determine that two of the required nine conditions in EC Section 35753 were not substantially met. Based on the information provided in the administrative record submitted by the County Superintendent (including minutes of the meetings), the only information considered by the County Committee, in addition to testimony provided at public hearings, was what was prepared and presented by the two affected school districts and the appellants. The administrative record contained no verification of the presented information and no independent analysis of the territory transfer by either the County Superintendent or outside consultant. Review of the minutes and audio recordings of the meetings/public hearings confirm that no independent analysis was presented to the County Committee.

The following is the CDE analysis of the two EC Section 35753 conditions that the County Committee determined were not substantially met.

- **EC Section 35753(a)(3): The proposal will result in an equitable division of property and facilities of the original district or districts.**

EC Section 35560 establishes two general guidelines for the allocation of funds, property, and obligations when school districts are reorganized:

1. Real property (e.g., school sites) shall be the property of the district in which the real property is located.
2. All other property, funds, and obligations (except bonded indebtedness) are to be divided pro rata among the affected districts based on the AV of the portions of the former district that are included in each of the districts. Note, however, that EC Section 35736 allows the County Committee or the SBE to include a more equitable plan, based on factors other than AV,

for the allocation of “other property, funds, and obligations” in the plans and recommendations of the reorganization proposal.

Based on the guidelines in *EC* Section 35560, the Silverado School (located in the territory proposed for transfer) will become the property of the Saddleback Valley USD if the transfer is approved. In the 10 years prior to the Silverado School’s closure for the 2009–10 school year, the school never enrolled more than 112 K–6 students. The following table depicts the enrollment trend for Silverado School from the highest enrollment of 112 students until closure.

Historical Enrollment for Silverado Elementary School

Year	Enrollment
2004–05	112
2005–06	100
2006–07	88
2007–08	93
2008–09	74
2009–10	<i>School Closed</i>

Source: CBEDS

At the time the County Committee considered the territory transfer, there were approximately 140 public school students (about 80 K–6 students) in the proposed transfer area. Thus, the transfer of the school (and its student capacity) appears to be equitable relative to the number of students involved in the transfer.

The Orange USD has expressed concerns about the loss of potential lease or sales revenue if the Silverado School were to transfer to Saddleback Valley USD. It appears that the County Committee determined that the *EC* Section 35753(a)(3) condition was not substantially met based, at least in part, on the Orange USD’s claim that loss of this potential revenue was not equitable.

Such revenue, if it is determined to be inequitable, can be addressed when considering the allocation of “other property, funds, and obligations” pursuant to *EC* Section 35736. Further discussion of this point is in the following bulleted item regarding effects of the reorganization on fiscal status.

It is the opinion of the CDE that this condition is substantially met.

- ***EC Section 35753(a)(9): The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.***

The County Superintendent requested that both affected districts submit information to be used by the County Committee “to evaluate whether or not the proposed transfer meets the minimum criteria” of *EC Section 35753*. The Orange USD submitted no documentation stating that the proposed transfer of territory would have a negative fiscal effect on the district. However, during public hearings, the Orange USD argued that the district would be fiscally harmed by the loss of potential lease and/or sales revenue from the Silverado School. The district provided no documentation to support its argument.

Petitioners claimed that the Silverado School is “padlocked” and has never generated lease income since its closure. The appellants further argue that: (1) the Orange USD inflated the value of the school to the County Committee, (2) the school, because of its isolated location, will be very difficult to lease, and (3) the Irvine Company donated the land (upon which the school is built) with a deed restriction that the site be used exclusively for a public school (thus, the land should revert back to the Irvine Company since it is no longer used for that purpose).

In CDE’s opinion, the issues raised by the Orange USD or the appellants are not particularly relevant to determining whether this condition is substantially met. The *EC* is clear that, if the transfer is approved, the Silverado School site will become the property of the Saddleback Valley USD (assuming any deed restrictions, if any, are addressed). However, the CDE examines the fiscal effects of Silverado School site becoming the property of the Saddleback Valley USD in the context of the following two issues:

1. The County Superintendent determined that the Orange USD is a fiscally solvent district (after review of the 2011–12 Second Interim Report) and approved the district’s 2012–13 Adopted Budget. Given that the district is a relatively fiscally healthy district, the loss of lease revenue for the Silverado School (if any), after factoring in district costs for maintaining the school site, should have minimal effect on the district’s future fiscal status. Similarly, any future sales revenue is not current revenue of the Orange USD and, thus, should have no effect on the current fiscal status of the district.



2. Even if the loss of lease or sales revenue is determined to have a negative effect on the Orange USD fiscal status in the future, there is a mechanism available to address that possibility at the local level. *EC* Section 35736 allows the SBE to add a provision to the plans and recommendations of the territory transfer proposal, for a more equitable division of the Orange USD's funds and obligations (should the SBE reverse the action of the County Committee).

In section 7.2 of this attachment, the CDE will recommend that the SBE include a general provision for division of assets and obligations for the districts and the County Superintendent to use if the territory transfer is approved. This provision will allow the affected districts and the County Superintendent to consider sales/lease revenue generated by the Silverado School and the fiscal status of the Orange USD when dividing property and obligations of the Orange USD (should the SBE reverse the action of the County Committee).

Given the above considerations, the CDE has determined that this condition is substantially met.

#### **6.6 No arbitration on the disposition of real property occurred.**

It is the opinion of the appellants that, even if loss of the Silverado School represented a substantial negative effect on the Orange USD (due to loss of either lease or sales revenue), the County Committee could have engaged in an arbitration process to mitigate the financial loss to the district. Such an arbitration process is available to the affected districts and the County Superintendent (pursuant to *EC* Section 35565) should the territory transfer be approved.

The County Committee had no authority to convene or engage in arbitration of the disposition of the real property while considering the territory transfer proposal. Thus, the CDE does not support this assertion of the appellants. However, had the County Committee recommended approval of the territory transfer proposal, it could have included (in the plans and recommendations for the territory transfer), a proposal that the financial effects of the loss of sales or lease revenue from the Silverado School be used in determining the division of funds, property (other than real property), or obligations of the Orange USD (pursuant to *EC* Section 35736). From that perspective, the County Committee could have entertained the possibility that the affected school districts and the County Superintendent (when addressing division of funds, property, and obligations) would explore ways to mitigate any fiscal effect of the loss of sales or lease revenue (see sections 6.5 and 7.2 of this attachment).

**6.7 The SBE has authority to approve a reorganization proposal when it is determined that one or more of the required nine conditions in *EC* Section 35753 are not substantially met and exceptional circumstances exist.**

The SBE does have the authority to approve a reorganization proposal when it has determined that one or more of the required nine conditions in *EC* Section 35753 are not substantially met and exceptional circumstances exist. However, the *EC* does not provide this authority to the County Committee. Therefore, it is the opinion of the CDE that this concern raised by appellants is not relevant to County Committee actions regarding the territory transfer proposals.

As noted previously, the County Committee had the discretion to approve the territory transfer if it determined that all *EC* Section 35753(a) conditions are met. Under this discretionary authority, the County Committee would not have been obligated to approve the transfer solely because all of the nine required conditions are met. The County Committee would have needed to find some reason to use its discretionary authority to approve the transfer (if it had found all conditions substantially met). CDE staff found nothing in the administrative record to suggest that the County Committee considered any exceptional circumstances, or compelling reasons, to support approving the territory transfer proposal.

*EC* Section 35500 states that it is the intent of the Legislature that “local educational needs and concerns” shall serve as the basis for reorganization of school districts. Although the County Committee discussed no compelling “local educational needs or concerns” to transfer the territory, the petitioners have offered several reasons that they consider compelling. Those reasons were listed in section 2.0 of this attachment, and are repeated here:

- Schools in the Saddleback Valley USD are closer than are the schools in the Orange USD.
- A number of canyon students already attend school (on interdistrict transfers) in the Saddleback Valley USD.
- Saddleback Valley USD is more philosophically compatible to the canyons and there are more shared community interests.
- Saddleback Valley USD is a better district. It scores higher on the API than does the Orange USD, and Orange USD is a PI district.

The first and third reasons listed above were considered in section 6.2. Based on this consideration, it is the determination of the CDE that they are not compelling reasons to transfer the territory.

The second listed reason is that a number of canyon students already attend Saddleback Valley USD. Petitioners stated that, at the time the petition was considered, about one-third of the students in the area attended the Saddleback Valley USD on interdistrict transfers (which means that about two-thirds of the students continued to attend the Orange USD).

According to records of the Orange USD, 149 interdistrict transfer requests (from Orange USD to Saddleback Valley USD) were made on behalf of students in the canyon area during the four years since the Silverado School was closed. All but one of these requests was approved (according to district records). Thus, the residents appear to currently have the choice of which district to attend. There is no guarantee that Saddleback Valley USD (a declining enrollment district in the process of closing schools) would approve interdistrict attendance requests to the degree the Orange USD currently is. Even if the Saddleback Valley USD does adopt a liberal policy toward interdistrict transfer requests, area residents would, at best, have the same choices of school districts as they currently have. The CDE does not find this to be a compelling reason to transfer the territory.

Finally, it is the petitioners' perception that the Saddleback Valley USD is an academically better district than the Orange USD. This issue is considered in greater detail in section 6.4 of this attachment. It is the opinion of the CDE that perceptions of educational performance, preferences for educational programs, and concerns about responsiveness of a school district, are valid reasons for students and parents of students to pursue options of school choice (e.g., interdistrict transfers, charter schools); but, they are not valid reasons for transferring territory out of a district.

## **6.8 Summary**

The CDE disagrees with the County Committee's findings that two of the nine conditions of *EC* Section 35753 are not substantially met—CDE finds that all nine of these threshold conditions are substantially met by the proposed territory transfer. The CDE finds no reason in the administrative record, or in its own analysis of the issues, to disapprove the transfer.

However, the CDE also determines that the petitioners have provided no compelling reason to approve the territory transfer. Given the lack of compelling issues to either approve or disapprove, the CDE determines that there is no reason to overturn the existing action of the County Committee to disapprove the territory transfer proposal.

## **7.0 STAFF RECOMMENDED AMENDMENTS TO THE PETITION**

If the SBE disagrees with the CDE recommendation and approves the appeal (thus, reversing the County Committee's action to deny the territory transfer), it has authority to amend or add certain provisions to the territory transfer proposal.

One of the provisions the SBE must add, if it reverses the action of the County Committee by approving the appeal, is the area of election.

## **7.1 Area of Election**

Determination of the area in which the election for a reorganization proposal will be held is one of the provisions under *EC* Article 3 (commencing with Section 35730) that the SBE may add or amend. *EC* Section 35710.5(c) also indicates that, following the review of an appeal, if the petition will be sent to an election, the SBE must determine the area of election.

The plans and recommendations to reorganize districts may specify an area of election, but specification of an election area is not required (*EC* Section 35732). If a plan does not specify the area of election, the statute specifies that “the election shall be held only in the territory proposed for reorganization.” Thus, the area proposed for reorganization is the “default” election area. The SBE may alter this area, but the alterations must comply with the “Area of Election Legal Principles” below. In this case, the County Committee disapproved the territory transfer, and the chief petitioners appealed the County Committee’s decision. Therefore, following review of the appeal, if the petition will be sent to election, the SBE must, pursuant to *EC* Section 35756, determine the territory in which the election will be held.

In establishing the area of election, the CDE and SBE follow the legal precedent set by the California Supreme Court in *Board of Supervisors of Sacramento County, et al. v. Local Agency Formation Commission* (1992) 3 Cal. 4<sup>th</sup> 903 (the “*LAFCO*” decision). *LAFCO* holds that elections may be confined to within the boundaries of the territory proposed for reorganization (the “default” area), provided there is a *rational basis* for doing so. *LAFCO* requires we examine: (1) the public policy reasons for holding a reorganization election within the boundaries specified; and (2) whether there is a genuine difference in the relevant interests of the groups that the election plan creates (in this situation, the analysis examines the interests of voters in the territory to be transferred from the Orange USD, those that will remain in the Orange USD, and those in the district that would receive the territory—the Saddleback Valley USD). The proposed transfer, in the opinion of the CDE, does not reflect any genuinely different interests between voters in the transfer area and voters in either of the affected school districts.

A reduced voting area has a fair relationship to a legitimate public purpose. State policy favors procedures that promote orderly school district reorganization statewide in a manner that allows for planned, orderly, community-based school systems that adequately address transportation, curriculum, faculty, and administration.

Finally, discussion of other judicial activity in this area is warranted. In a case that preceded *LAFCO*, the California Supreme Court invalidated an SBE reorganization decision that approved an area of election that was limited to the newly unified district. As a result, electors in the entire high school district were entitled to vote (*Fullerton Joint Union High School District v. State Board of Education* [1982] 32 Cal. 3d 779 [*Fullerton*]). The *Fullerton* court applied strict scrutiny and required demonstration of a compelling state interest to justify the exclusion of those portions of the district from which the newly unified district would be formed.

The *Fullerton* case does not require that the SBE conduct a different analysis than that described above. The *LAFCO* decision disapproved the *Fullerton* case, and held that absent invidious discrimination, the rational basis approach to defining the election area applied. In this matter, no discrimination, segregation, or racial impacts are identified. Accordingly, the *LAFCO* standard and analysis applies.

CDE staff finds that the transfer of territory would have no significant effect on the voters in either the remaining Orange USD or the receiving Saddleback Valley USD. Therefore, if the SBE reverses the action of the County Committee, the CDE recommends the SBE establish the area proposed for transfer as the area of election.

## **7.2 Division of Property, Funds, and Obligations**

A proposal may include a provision for the division of property and obligations of any district whose territory is being partially included in one or more districts (*EC* Section 35736). As indicated in section 6.5 of this attachment, the CDE determined that existing provisions of the *EC* may be utilized to achieve an equitable distribution of property, funds, and obligations of the Orange USD. The CDE recommends the following:

- The disposition of potential lease or sales revenue of the Silverado School has been the apparent primary issue of concern for the County Committee and the Orange USD. Equitable division of property and obligations of the Orange USD shall include consideration of: (1) past, current, and/or potential lease or sales revenue of the Silverado School, (2) past, current, and/or potential costs to maintain the school, (3) all other fiscal issues related to leasing, selling, or owning the school, and (4) the fiscal status of the Orange USD and the Saddleback Valley as of the Second Interim Report of the school year immediately preceding the date on which the proposed territory transfer becomes effective for all purposes. Such division of property and obligations shall be negotiated by the Orange USD and the Saddleback Valley USD.

- Any remaining assets and liabilities (those not included in the above division plan) of the Orange USD shall be divided based on the proportionate public school student population residing in the area proposed for transfer and the remaining territory of the district on June 30 of the school year immediately preceding the date on which the proposed territory transfer becomes effective for all purposes.
- Disputes arising from any division of property, funds, or obligations shall be resolved by the affected school districts and the county superintendent of schools through a board of arbitrators. The board shall consist of one person appointed by each district and one by the county superintendent of schools. By mutual accord, the county member may act as sole arbitrator. Expenses will be divided equally between the districts. The written findings and determination of the majority of the board of arbitrators is final, binding, and may not be appealed (*EC* Section 35565).

## **8.0 STATE BOARD OF EDUCATION OPTIONS**

The SBE has two general options to deny the appeal (thus, upholding the County Committee action) and two options to approve the appeal (thus, overturning the County Committee action).

To deny the appeal, the SBE may either:

- Determine that the proposed transfer of territory fails to substantially meet all nine conditions of *EC* Section 35753(a) and deny the appeal, which affirms the County Committee's decision to disapprove the transfer; or
- Determine that the proposed transfer of territory substantially meets all nine conditions of *EC* Section 35753(a) and deny the appeal on other grounds (e.g., there is no compelling reason to overturn the County Committee decision).

To approve the appeal, the SBE may either:

- Determine that the proposed transfer of territory substantially meets all nine conditions of *EC* Section 35753(a), approve the appeal, and reverse the County Committee's decision to disapprove the transfer. Under this option the SBE must determine the election area for the reorganization; or
- Determine that the proposed transfer of territory fails to substantially meet all nine conditions of *EC* Section 35753(a); determine that it is not practical or possible to apply these conditions literally and that the circumstances with respect to the petition provide an exceptional situation sufficient to justify approval; and, reverse the County Committee's

decision to disapprove the transfer. Under this option, the SBE also must determine the election area for the reorganization.

## **9.0 RECOMMENDED ACTION**

The CDE recommends that the SBE deny the appeal and affirm the County Committee's disapproval of the territory transfer proposal based on the determination that there are no compelling "local educational needs and concerns" to justify approval of the territory transfer.

Should the SBE determine that compelling reasons exist to warrant reversing the disapproval of the territory transfer proposal, the CDE recommends that the SBE: (1) establish the election area as the territory proposed for transfer and (2) include, in the plans and recommendations for the proposal, the provisions for division of property, funds, and obligations listed in section 7.2 of this attachment.

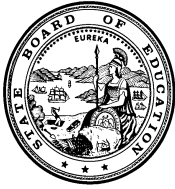


# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 14**





## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### SUBJECT

Certification of an Environmental Impact Report for the Proposed Formation of Wiseburn Unified School District from Wiseburn Elementary School District and a Portion of Centinela Valley Union High School District in Los Angeles County.

- ☒ Action
- ☒ Information
- ☒ Public Hearing

#### SUMMARY OF THE ISSUE(S)

The California State Board of Education (SBE) will take action to approve or disapprove a proposal to form a new unified school district from the territory of the current Wiseburn Elementary School District (ESD) in Los Angeles County in a separate item on the current SBE agenda (Placeholder for Item #). In 1982, the California Supreme Court held that such a school district unification proposal is a project within the scope and meaning of the California Environmental Quality Act (CEQA) and that the SBE, as the state agency making the ultimate decision prior to the final approval of the project, is the lead agency. The SBE, as lead agency, must consider the environmental effects of the proposed formation of a new unified school district before granting approval of the unification proposal.

#### RECOMMENDATION

The California Department of Education (CDE) recommends that the SBE adopt the attached proposed resolution (Attachment 1) certifying the Environmental Impact Report (EIR) prepared for the proposed formation of a new unified (kindergarten through twelfth grade) school district from Wiseburn ESD and a portion of the Centinela Valley Union High School District (UHSD) in Los Angeles County.

#### BRIEF HISTORY OF KEY ISSUES

The action to form a Wiseburn Unified School District (USD) was initiated pursuant to California *Education Code (EC)* Section 35700(a), which requires a petition signed by at least 25 percent of the registered voters residing in the territory proposed for reorganization. The Los Angeles County Office of Education (LACOE) analyzed the proposed unification and the Los Angeles County Committee on School District Organization (County Committee), on May 1, 2002, voted 4-3 to recommend approval of the petition. On June 18, 2002, the County Committee transmitted its recommendation to the SBE. The reorganization proposal is presented to the SBE as a separate item on

this agenda. The SBE also is the lead agency for the environmental analysis of any unification proposal. "Lead agency" (pursuant to California *Public Resources Code* Section 21067) means "the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment." In 1982, the California Supreme Court held that reorganization of school district boundaries is a project within the scope and meaning of CEQA and that the SBE, as the state agency making the ultimate decision prior to the election, is the lead agency. The lead agency must consider the environmental effects of a project subject to CEQA before granting any approval of a project.

The CDE contracted with the Department of General Services (DGS) on September 29, 2005 to: (1) select an environmental consultant and (2) direct and supervise the environmental review under CEQA. Terry A. Hayes Associates (TAHA), an environmental planning consultant located in Culver City (Los Angeles County), was selected to perform the environmental review. The focus of the environmental review was on the determination that the proposed unification would create a reasonable and foreseeable need for the development of a new high school. Prototypical high school sites were identified and the environmental effects of developing these prototypical sites were examined—thus, this environmental review is a programmatic analysis of the proposed unification rather than a site-specific analysis associated with a specific construction project. Five primary documents have been prepared during this review: a Draft EIR, a Final EIR, a revised Final EIR, a Mitigation Monitoring and Reporting Program (MMRP), and a Statement of Overriding Considerations (SOC). These documents, as well as the environmental review process, are summarized in Attachment 2. The complete documentation is available as Attachment 3 (Draft EIR), Attachment 4 (Final EIR), Attachment 5 (Revised Final EIR), and Attachment 6 (MMRP and SOC).

The Draft EIR (Attachment 3) identifies seven areas determined to have significant environmental impacts before mitigation. The Draft EIR also identifies mitigation measures to avoid or substantially reduce the level of all identified significant adverse impacts to the extent feasible. In addition, there are two significant unavoidable environmental impacts of the proposed unification project:

- Under the worst-case scenario (i.e., development of a three-story high school building with residential buildings located immediately adjacent to the school site), shadows cast could significantly impact residences to the north for a substantial number of hours during the winter solstice. Implementation of mitigation measures would reduce impacts; however, aesthetic impacts would remain significant and unavoidable.
- Up to six of the study intersections would be significantly impacted by the development of a new high school within the project area. Implementation of mitigation measures would reduce impacts at some of the street intersections in the study; however, traffic impacts would remain significant and unavoidable.

Since the time the Final EIR was completed, the Wiseburn ESD moved forward with plans for a comprehensive high school in the anticipation that the SBE would approve

the Wiseburn unification proposal. As part of these plans, the district identified a site for the new high school and contracted for its own EIR regarding the renovation of the building located on this site to meet standards for a high school.<sup>1</sup> TAHA reviewed the Wiseburn ESD EIR, determined that the findings do not contradict any of the findings of the Draft EIR, and incorporated the findings into a Revised Final EIR (see Attachment 5 [sections 1.8 and 1.9] for more details). Further, TAHA notes that substantial evidence is presented in the site-specific Wiseburn ESD EIR that the unavoidable significant environmental effects determined to occur in the programmatic analysis may not occur on a project specific level of analysis.

If a lead agency approves a project with significant impacts that are not substantially mitigated (i.e., unavoidable significant impacts), the agency must state in writing the specific reasons for approving the project. These reasons comprise the SOC (Attachment 6) and, in general, relate to the overall educational advantages of a Wiseburn USD and the findings in the Wiseburn ESD EIR that the unavoidable significant impacts identified in the Draft EIR may not occur. The purpose of the MMRP (Attachment 6) is to ensure that the measures identified in the EIR to mitigate any potentially significant environmental effects of the development of a new high school are, in fact, properly carried out.

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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A consideration of the environmental effects of the proposal to form a Wiseburn Unified School District (USD) was presented to the SBE at its September 2004 meeting. At that meeting, the SBE adopted a Negative Declaration, pursuant to CEQA, indicating that no significant environmental effects as a result of the proposed unification were found.

In October 2004, Centinela Valley UHSD filed legal action alleging the CEQA study for the proposal was inadequate and, in December 2004, the court issued a preliminary injunction enjoining further action on the proposal to create a new unified school district. The SBE and the CDE voluntarily determined that the review and evaluation of the environmental impact of the proposed new district was not compliant with the provisions of CEQA and, on January 13, 2005, the SBE rescinded its prior decision to adopt the Negative Declaration.

To comply with CEQA, the CDE completed an EIR for the proposed unification and prepared the EIR certification (and accompanying Wiseburn unification proposal) for the January 2010 SBE meeting. However, both the CDE and the SBE agreed to a delay in order to allow time to respond to concerns about the EIR raised by the Centinela Valley UHSD. After responding to the concerns, the CDE again placed the Wiseburn unification proposal and the EIR certification on the May 2010 SBE agenda. However, the Wiseburn ESD expressed concerns regarding CDE recommendations for the unification proposal and requested that the unification items (including the CEQA item)

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<sup>1</sup> Note that the Wiseburn ESD site specific EIR is a separate and distinct requirement. The focus of the EIR being considered by the SBE is the proposed unification proposal (including the identification of prototypical school sites and the general environmental effects of prototypical schools on surrounding areas). The Wiseburn ESD EIR focuses on the effects of developing a specific school site.

be pulled from the agenda until a local agreement could be obtained regarding outstanding local concerns.

The Wiseburn ESD and the Centinela Valley UHSD, after two years of negotiations, sponsored special legislation that addressed all outstanding areas of concern regarding the formation of a Wiseburn USD. The legislation became law effective January 1, 2013 (Chapter 730, Statutes of 2011-12 [Senate Bill 477]).

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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No effects on state costs due to the certification of the EIR have been identified. The SBE and the CDE have entered into an Indemnification Agreement with the Wiseburn ESD upon which the Wiseburn ESD will bear all CDE and SBE costs in the event of litigation regarding the SBE's certification of the EIR.

### **ATTACHMENT(S)**

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- Attachment 1: A Resolution of the California State Board of Education certifying the Environmental Impact Report (SCH #2007031069) for the proposed Formation of the Wiseburn Unified School District Project pursuant to the California Environmental Quality Act (3 pages)
- Attachment 2: Summary of California Environmental Quality Act Process for the Proposed Formation of a Wiseburn Unified School District (6 pages)
- Attachment 3: Formation of Wiseburn Unified School District, Draft Environmental Impact Report, State Clearinghouse No. 2007031069

This attachment is available for Web viewing in three parts:

- Draft Environmental Impact Report (4 MB) at <http://webtaha.com/PDFs/Formation%20of%20the%20Wiseburn%20Unified%20School%20District%20Draft%20EIR.pdf>
- Appendices Part 1 (8 MB) at <http://webtaha.com/PDFs/Appendices%20A%20&%20B%20For%20formation%20of%20Wiseburn%20School%20Dist%20Draft%20EIR.pdf>
- Appendices Part 2 (7 MB) at <http://webtaha.com/PDFs/Appendices%20C%20thru%20F%20Formation%20of%20Wiseburn%20School%20Dist%20Draft%20EIR.pdf>

(A printed copy is available for viewing in the SBE Office.)

- Attachment 4: Formation of Wiseburn Unified School District, Final EIR (5 MB) is available for Web viewing at <http://webtaha.com/PDFs/Formation%20of%20the%20Wiseburn%20Unified%20School%20District%20Previous%20Revised%20Final%20EIR.pdf> (A printed copy is available for viewing in the SBE Office.)
- Attachment 5: Formation of Wiseburn Unified School District, Revised Final EIR (5 MB) is available for Web viewing at <http://webtaha.com/PDFs/Revised%20Final%20EIR.pdf> (A printed copy is available for viewing in the SBE Office.)
- Attachment 6: Formation of Wiseburn Unified School District, Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program (265 KB) is available for Web viewing at <http://webtaha.com/PDFs/Findings,%20SOC%20&%20MMRP.pdf> (A printed copy is available for viewing in the SBE Office.)

CALIFORNIA STATE BOARD OF EDUCATION  
May 2013

PROPOSED RESOLUTION

A Resolution of the California State Board of Education certifying the Environmental Impact Report (SCH #2007031069) for the proposed Formation of the Wiseburn Unified School District Project pursuant to the California Environmental Quality Act.

WHEREAS, the California Department of Education (CDE), as staff to the California State Board of Education (SBE), has prepared an Environmental Impact Report (EIR) for the proposed formation of a Wiseburn Unified School District (USD) project (the Project); and

WHEREAS, the SBE will exercise its discretion when determining whether to adopt a resolution approving the petition to form a Wiseburn USD, and therefore the SBE, as lead agency for the proposed Project, is required to review, consider, and certify the EIR; and

WHEREAS, if adopted, the SBE resolution approving the petition will trigger a local election to approve the proposed Project; and

WHEREAS, the proposed Project involves the SBE's approval of a referendum petition to consider the formation of a unified school district, the proposed Project does not include the creation of a new high school at a particular site at this time; and

WHEREAS, it is reasonably foreseeable that a new high school would be developed somewhere within a Wiseburn USD's boundaries, if a Wiseburn USD is formed: the EIR therefore addresses not only the formation of a Wiseburn USD but also includes a preliminary identification of prototypical sites for the location of a new high school and programmatic analysis of the associated indirect environmental impacts; and

WHEREAS, the programmatic analysis included in the EIR is intended to provide, pursuant to streamlining provisions set forth in the California Environmental Quality Act (CEQA) (*Public Resources Code* Section 21000 et seq.) and the CEQA Guidelines (Title 14, *California Code of Regulations*, Section 15000 et seq.), "first tier" analysis of the possible environmental impacts that may result from potential new high school sites within the unified school district; and

WHEREAS, a Wiseburn USD, if formed, would be considered the "lead agency" for the creation of a new high school within its boundaries and would be responsible for preparing subsequent or separate project-specific environmental review pursuant to CEQA; and

WHEREAS, it was not feasible to identify the specific location, size, or design of the potential new high school: the EIR therefore analyzed the indirect impacts that would likely be associated with the new high school at a programmatic level to the extent feasible; and

WHEREAS, subsequent or separate environmental review concerning a new high school within a Wiseburn USD, if formed, may rely on the EIR's analysis, either by tiering off of it or through incorporation by reference; and

WHEREAS, the CDE prepared a Notice of Preparation (NOP) concerning the Draft EIR for the proposed Project and distributed the NOP to the State Clearinghouse and Planning Unit (SCH) within the Governor's Office of Planning and Research (SCH# 2007031069), responsible agencies, and other interested parties for comment from March 12, 2007 through May 15, 2007; and

WHEREAS, the CDE prepared a Draft EIR for the proposed Project and circulated the Draft EIR for public review and comment from July 7, 2008, through August 21, 2008, pursuant to CEQA and the CEQA Guidelines; and

WHEREAS, the CDE held a duly noticed public hearing concerning the Draft EIR on July 22, 2008, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the CDE prepared a Final EIR which responds to the concerns raised by the public and public agencies during the public review period and at the public hearing; and

WHEREAS, the SBE has reviewed and considered the information contained in the EIR, which consists of the Draft EIR and the Final EIR for the proposed Project, and has prepared its Findings of Fact and a Statement of Overriding Considerations.

NOW THEREFORE, BE IT RESOLVED by the California State Board of Education as follows:

1. The EIR for the proposed Project has been prepared and completed in compliance with CEQA and the CEQA Guidelines.
2. The EIR reflects the independent judgment of the California State Board of Education.
3. The Record of Proceedings includes the following:
  - a. The Draft EIR,
  - b. The Technical Appendices to the Draft EIR,
  - c. The Previous Final EIR,

- d. The Revised Final EIR, and
  - e. Findings of Facts, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program
- 4. The EIR identified potentially significant indirect impacts that may be caused by the creation of a new high school within a proposed Wiseburn USD. The EIR also identified mitigation measures that would reduce the identified impacts to a less-than-significant level. However, the recommended mitigation measures described in the EIR are not within the SBE's responsibility and jurisdiction, and therefore cannot be feasibly implemented by the SBE. Implementing the recommended mitigation measures would instead be the responsibility of a Wiseburn USD, if it is formed.
  - 5. A Wiseburn USD, if formed, would be required to prepare a project-specific EIR for the creation of a new high school within its boundaries. The project-specific EIR would need to address all associated potentially significant impacts of a new high school, and may do so as either a completely stand-alone EIR or through tiering or incorporation by reference. In order to tier off of the EIR prepared by the CDE, however, the project-specific EIR would be required to adopt the mitigation measures set forth in the SBE's EIR.
  - 6. Because the SBE cannot feasibly implement the recommended mitigation measures, the identified impacts would remain significant and unavoidable if a new Wiseburn USD, if formed, does not adopt mitigation measures to reduce them to less-than-significant levels.
  - 7. Based on the Record of Proceedings and the above findings, the SBE DOES HEREBY CERTIFY the EIR for the proposed Project.



## **Summary of California Environmental Quality Act Process for the Proposed Formation of a Wiseburn Unified School District**

### **1.0 INTRODUCTION**

The action to form a Wiseburn Unified School District (USD) was initiated pursuant to California *Education Code (EC)* Section 35700(a), which requires a petition signed by at least 25 percent of the registered voters residing in the territory proposed for reorganization. The Los Angeles County Office of Education (LACOE) analyzed the proposed unification and the Los Angeles County Committee on School District Organization (County Committee), on May 1, 2002, voted 4-3 to recommend approval of the petition. On June 18, 2002, the County Committee transmitted its recommendation to the California State Board of Education (SBE). The reorganization proposal is presented to the SBE as a separate item on this agenda.

The SBE also is the lead agency for the environmental analysis of any unification proposal. "Lead agency" (pursuant to California *Public Resources Code* Section 21067) means "the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment." In 1982, the California Supreme Court held that reorganization of school district boundaries is a project within the scope and meaning of the California Environmental Quality Act (CEQA) and that the SBE, as the state agency making the ultimate decision prior to the election, is the lead agency. The lead agency must consider the environmental effects of a project subject to CEQA before granting any approval of a project.

Under CEQA, the lead agency is responsible for the following activities for CEQA (*California Code of Regulations*, Title 14 [14 CCR], Section 15002):

- Inform governmental decision-makers and the public about the potentially significant environmental effects of proposed activities.
- Identify the ways that environmental damage can be avoided or significantly reduced.
- Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.
- Disclose to the public the reasons why a governmental agency approved the project if significant environmental effects are involved.

The lead agency must consider the environmental effects of a project subject to CEQA before granting any approval of a project.

## **2.0 HISTORY**

A consideration of the environmental effects of the proposal to form a Wiseburn Unified School District (USD) was presented to the SBE at its September 2004 meeting. At that meeting, the SBE adopted a Negative Declaration, pursuant to CEQA, indicating that no significant environmental effects as a result of the proposed unification were found.

In October 2004, Centinela Valley UHSD filed legal action alleging the CEQA study for the proposal was inadequate and, in December 2004, the court issued a preliminary injunction enjoining further action on the proposal to create a new unified school district. The SBE and the CDE voluntarily determined that the review and evaluation of the environmental impact of the proposed new district was not compliant with the provisions of CEQA and, on January 13, 2005, the SBE rescinded its prior decision to adopt the Negative Declaration.

The California Department of Education (CDE) contracted with the Department of General Services (DGS) on September 29, 2005 to: (1) select an environmental consultant and (2) direct and supervise the environmental review under CEQA. Terry A. Hayes Associates (TAHA), an environmental planning consultant located in Culver City (Los Angeles County), was selected to perform the environmental review. The focus of the environmental review was on the determination that the proposed unification would create a reasonable and foreseeable need for the development of a new high school. Prototypical high school sites were identified and the environmental effects of developing these prototypical sites were examined—thus, this environmental review is a programmatic analysis of the proposed unification rather than a site-specific analysis associated with a specific construction project.

The CDE prepared the EIR certification (and accompanying Wiseburn unification proposal) for the January 2010 SBE meeting. However, both the CDE and the SBE agreed to a delay in order to allow time to respond to concerns about the EIR raised by the Centinela Valley UHSD. After responding to the concerns, the CDE again placed the Wiseburn unification proposal and the EIR certification on the May 2010 SBE agenda. However, the Wiseburn ESD expressed concerns regarding CDE recommendations for the unification proposal and requested that the unification items (including the CEQA item) be pulled from the agenda until a local agreement could be obtained regarding outstanding local concerns.

The Wiseburn ESD and the Centinela Valley UHSD, after two years of negotiations, sponsored legislation that addressed all outstanding areas of concern

regarding the formation of a Wiseburn USD. That legislation (Senate Bill 477 [Chapter 730, Statutes of 2011-12]) became law effective January 1, 2013.

### **3.0 ENVIRONMENTAL REVIEW DOCUMENTATION**

As noted above, this environmental review is a programmatic analysis of the proposed unification rather than a site-specific analysis associated with a specific construction project. Five primary documents have been prepared by TAHA during this review process: a Draft Environmental Impact Report (EIR), a Final EIR, a revised Final EIR, a Mitigation Monitoring and Reporting Program (MMRP), and a Statement of Overriding Considerations (SOC). The complete documentation is available as Attachment 3 (Draft EIR), Attachment 4 (Final EIR), Attachment 5 (Revised Final EIR), and Attachment 6 (MMRP and SOC). Note that a Revised Final EIR was prepared to address changes in circumstances that occurred between the time that the EIR certification was placed on the May 2010 SBE meeting and the present time. The changes included: (1) effects of the negotiation between the affected districts and the subsequent legislation (Senate Bill 477) and (2) actions of the Wiseburn ESD to acquire a high school site (see following discussion for more details).

The environmental review documents are summarized below:

#### **3.1 Environmental Impact Report**

The purpose of the EIR is to provide information regarding the significant environmental effects of a project, identify possible ways to minimize these effects, and describe reasonable alternatives to the project. Because the formation of a Wiseburn USD itself would not cause any direct physical environmental effects, the Final EIR (with the Draft EIR incorporated by reference) assesses, at a programmatic level, the potentially significant indirect adverse environmental effects related to the reasonably foreseeable development of a new high school within a Wiseburn USD. Because a proposed Wiseburn USD had not been formed at the time of preparation of the Draft EIR, it was not feasible to identify a specific site for a new high school within a Wiseburn USD. Thus, this EIR evaluates the potential impacts that could be caused by the reasonably foreseeable construction of a new high school at potential school sites within a proposed Wiseburn USD. Subsequent environmental review and documentation will be required if and when a specific high school project is proposed by the new district.

The Draft EIR (Attachment 3) identifies seven areas determined to have significant environmental impacts before mitigation. The Draft EIR also identifies mitigation measures to avoid or substantially reduce the level of all identified significant adverse impacts to the extent feasible. In addition,

there are two significant unavoidable environmental impacts of the proposed unification project:

- Under the worst-case scenario (i.e., development of a three-story high school building with residential buildings located immediately adjacent to the school site), shadows cast could impact residences to the north for a substantial number of hours (8:00 a.m. to 4:00 p.m.) during the winter solstice and for a few hours (7:00 to 9:00 a.m. and 3:00 p.m. to 5:00 p.m.) during the spring/fall equinoxes. Shading could be substantial and could affect residences located north of a school site.
- Implementation of mitigation measures would reduce impacts at some of the street intersections in the study; however, traffic impacts at up to four intersections would remain significant and unavoidable.

Between the time that the Final EIR was completed and this SBE agenda item was prepared, the Wiseburn Elementary School District (ESD) moved forward with plans for a comprehensive high school in the anticipation that the SBE would approve the Wiseburn unification proposal. As part of these plans, the district identified a site for the new high school and contracted for an EIR regarding the renovation of the building located on this site to meet standards for a high school. That EIR was reviewed and its findings incorporated into the Revised Final EIR. The findings contained in the Wiseburn ESD EIR do not contradict any of the findings of the Draft EIR. Instead, the site specific traffic analysis performed in the Wiseburn ESD EIR indicates that traffic impacts would be less (see Attachment 5, sections 1.8 and 1.9, for more details).

The Revised Final EIR (Attachment 5) addresses the findings from the Wiseburn ESD EIR (as noted above) and analyses of other changes in circumstances since the preparation of the Draft EIR. This Revised Final EIR (as does the Final EIR) includes the Draft EIR (by reference); comments and recommendations received on the Draft EIR (either verbatim or in summary); a list of persons, organizations, and public agencies who commented on the Draft EIR; and responses to the comments. Attachment 5 contains all the comments to the Draft EIR that are not considered introductory material or opinion, and responses to those comments. The Revised Final EIR is the primary reference document for the formulation and implementation of the SOC and MMRP for this proposed project.

### **3.2 Statement of Overriding Considerations**

Environmental impacts cannot always be mitigated to a level that is considered less than significant. If a lead agency approves a project with significant impacts that are not substantially mitigated (i.e., unavoidable significant impacts), the agency shall state in writing the specific reasons for approving the project based on the final CEQA documents and any other information in the public record for the project. These reasons comprise the SOC (Attachment 6) and, in general, relate to the overall educational advantages of a Wiseburn USD and the findings in the Wiseburn ESD EIR that the unavoidable significant impacts identified in the Draft EIR may not occur.

### **3.3 Mitigation Monitoring and Reporting Program**

The purpose of the MMRP (Attachment 6) is to ensure that the measures identified in the EIR to mitigate the potentially significant environmental effects of the development of a new high school ("project") are, in fact, properly carried out. The MMRP contains the following:

- All of the recommended mitigation measures that address the potentially significant indirect impacts that would be caused by the potential development of a new high school within the future Wiseburn USD (listed according to the same numbering system contained in the Draft EIR).
- Phase/time during which the mitigation measure must be implemented and/or monitored.
- Identification of the party responsible for implementing the mitigation measure.
- Identification of the party responsible for monitoring the implementation of the mitigation measure.

The proposed project only involves a change of school district administrative structure and no direct physical impact on the environment would result from the proposed project. However, it is reasonably foreseeable that a high school would be developed somewhere within the proposed Wiseburn USD boundaries, either through new construction and/or reuse of an existing facility. A future Wiseburn USD, if formed, would be the lead agency for purposes of CEQA and would be responsible for preparing a separate, project-specific EIR for any potential new high school within its boundaries. (Note that the Wiseburn ESD, in

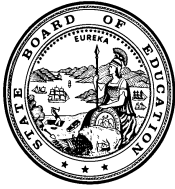
anticipation of SBE approval of the Wiseburn unification proposal, already has initiated an EIR for the renovation of an existing office building into a high school.) The new district also would be responsible for preparing its own MMRP, which may incorporate all of the mitigation measures specified and recommended in the current MMRP. Finally, the new district would be solely responsible for assuring full compliance with the provisions of the MMRP that it adopts.



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 15**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### SUBJECT

Proposed Formation of a Wiseburn Unified School District from the Wiseburn Elementary School District and a Portion of the Centinela Valley Union High School District in Los Angeles County.

- ☒ Action
- ☒ Information
- ☒ Public Hearing

#### SUMMARY OF THE ISSUE(S)

A petition to form a new unified school district from the Wiseburn Elementary School District (ESD) and a portion of the Centinela Valley Union High School District (UHSD) in Los Angeles County initially was presented to the Los Angeles County Office of Education (LACOE) in November 2001. Throughout numerous analyses at the local and state levels over the subsequent 10 years, the primary concerns regarding the proposal raised at both the county and state levels were: (1) the negative effects of removing a disproportionate percentage of the assessed valuation (AV) from the Centinela Valley UHSD, (2) the substantial negative fiscal effects the reorganization would have on the high school district, and (3) the strong opposition to the unification proposal from the Centinela Valley UHSD. Recent legislation, jointly sponsored by the Wiseburn ESD and the Centinela Valley UHSD, addresses the AV and fiscal concerns; and the Centinela Valley UHSD now supports the unification proposal.

#### RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) adopt the attached proposed resolution (Attachment 2) approving the petition to form a new unified (kindergarten through twelfth grade) school district from Wiseburn ESD and a portion of Centinela Valley UHSD. Attachment 2 includes the additional provisions to the plans and recommendations of the proposal that are recommended by the CDE in Section 8.0 of Attachment 1.

#### BRIEF HISTORY OF KEY ISSUES

The action to form a Wiseburn Unified School District (USD) was initiated pursuant to California *Education Code (EC)* Section 35700(a), which requires that a petition be signed by at least 25 percent of the registered voters residing in the territory proposed for reorganization. The LACOE analyzed effects of the proposed unification on the nine required conditions for approval listed in *EC* Section 35753(a). The Los Angeles County



Committee on School District Organization (County Committee) determined that the proposed unification failed to substantially comply with two of these nine conditions of *EC* Section 35753(a)—finding that the proposal: (1) failed to provide an equitable distribution of the assets of the Centinela Valley UHSD and (2) would have a significant negative fiscal effect on the high school district. However, the County Committee voted 4-3 to recommend approval of the petition. The County Committee then voted to recommend expanding the election area to the entire Centinela Valley UHSD. The LACOE subsequently transmitted the County Committee findings and recommendation to the SBE.

The CDE analyzed and prepared three analyses/recommendations at different points in time for the SBE (see following “Summary of Previous State Board of Education Discussion and Action” section). The Wiseburn ESD requested that the last of these three analyses and recommendations, which was placed on the May 2010 SBE meeting, be withdrawn until the Wiseburn ESD and the Centinela Valley UHSD could negotiate a local agreement to resolve the concerns raised in the CDE analysis. That negotiation process resulted in legislation (Chapter 730, Statutes of 2011–12 [Senate Bill 477]), effective January 1, 2013, that addressed concerns related to the unification proposal to the mutual satisfaction of both the Wiseburn ESD and the Centinela Valley UHSD. With all concerns addressed, both districts now support the unification proposal.

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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The proposal to form a Wiseburn Unified School District (USD), along with a California Environmental Quality Act (CEQA) item, was presented to the SBE at its September 2004 meeting. At that meeting, the SBE approved the unification proposal. In October 2004, Centinela Valley UHSD filed legal action alleging the CEQA study for the proposal was inadequate. In December 2004, the court issued a preliminary injunction, enjoining further action on the proposal to create a new unified school district. The SBE and the CDE voluntarily determined that the review and evaluation of the environmental impact of the proposed new district was not compliant with the provisions of CEQA and, on January 13, 2005, the SBE rescinded its prior decision to approve the unification proposal.

To comply with CEQA, the CDE completed an Environmental Impact Report (EIR) for the proposed unification and again placed the Wiseburn unification proposal (and accompanying CEQA item) on the January 2010 SBE agenda. That item was pulled by joint decision of the CDE and SBE to allow time to respond to concerns from the Centinela Valley UHSD about the CEQA review. Both items were updated and placed on the May 2010 SBE meeting. At that time, the CDE recommended that the SBE approve the unification item, but also recommended that all voters in the Centinela Valley UHSD be allowed to vote on the unification proposal since the unification would have significant effects on the AV and General Obligation (GO) bonding capacity of that district. The Wiseburn ESD expressed concerns regarding the expanded election area and requested that the items be pulled from the SBE agenda until a local agreement could be obtained regarding the AV and GO bonding capacity issues.

The Wiseburn ESD and the Centinela Valley UHSD, after two years of negotiations, sponsored special legislation that addressed all outstanding areas of concern regarding the formation of a Wiseburn USD. The legislation became effective January 1, 2013. One provision of this legislation is that the election area for the unification proposal will be the current Wiseburn ESD. The SBE now has no option to expand the election area.

#### **FISCAL ANALYSIS (AS APPROPRIATE)**

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The 2011–12 base revenue limits (per unit of average daily attendance [ADA]) of the Wiseburn ESD and the Centinela Valley UHSD are \$6,382 and \$7,481, respectively. Pursuant to *EC* Section 35735, the Los Angeles County Superintendent of Schools (County Superintendent) has determined that the new blended base revenue limit for a Wiseburn USD is \$6,670 per ADA and is eligible for adjustments due to the higher average salaries and benefits of Centinela Valley UHSD staff. Those adjustments, which are capped by the *EC* at 10 percent of the base revenue limit, will increase the base revenue limit per ADA of the new district to \$7,337. This calculation is based on 2011–12 data and, if the unification is approved, the CDE will recalculate the revenue limit for the new unified district based on information from two years prior to the effective date of the new school district. Since this revenue limit is required by statute, the CDE does not consider any increase to be a significant increase in costs to the state.

State Board of Education approval of the unification proposal also will result in a local election within the Wiseburn ESD. Election costs will depend upon the timing and the type of election (e.g., stand-alone special election, consolidated general election, mail ballot election). Typical costs (on a per voter basis) could range from \$2.50 to \$4.00 (plus a standard fee for the preparation of the sample ballot). Pursuant to *EC* Section 35759, election costs will be a charge against the general fund of Los Angeles County.

No other fiscal effects due to the proposed reorganization have been identified.

#### **ATTACHMENT(S)**

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Attachment 1: Report of Required Conditions for Reorganization (29 pages)

Attachment 2: Proposed Resolution (2 pages)

**REPORT OF REQUIRED CONDITIONS FOR REORGANIZATION**  
**PROPOSED FORMATION OF**  
**WISEBURN UNIFIED SCHOOL DISTRICT FROM**  
**WISEBURN ELEMENTARY SCHOOL DISTRICT AND A PORTION OF**  
**CENTINELA VALLEY UNION HIGH SCHOOL DISTRICT IN**  
**LOS ANGELES COUNTY**

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## **1.0 RECOMMENDATION**

The California Department of Education (CDE) recommends that the State Board of Education (SBE) adopt the attached proposed resolution (Attachment 2) approving the petition to form a new unified (kindergarten through twelfth grade) school district from Wiseburn Elementary School District (ESD) and a portion of Centinela Valley Union High School District (UHSD). Attachment 2 includes the additional provisions to the plans and recommendations of the proposal that are recommended by the CDE in Section 8.0 of this report.

## **2.0 BACKGROUND**

### **2.1 Initiation of the Unification Proposal**

On November 9, 2001, a petition proposing the formation of a new unified school district from the territory of the Wiseburn ESD and the corresponding portion of Centinela Valley UHSD, signed by at least 25 percent of the registered voters within Wiseburn ESD, was submitted to the Los Angeles County Office of Education (LACOE). Pursuant to California *Education Code* (EC) Section 35704, the Los Angeles County Superintendent of Schools (County Superintendent) found the petition to be sufficient.

In addition to Wiseburn ESD, there are three other component elementary school districts within Centinela Valley UHSD: Hawthorne ESD, Lawndale ESD, and Lennox ESD. Centinela Valley UHSD has three comprehensive high schools, none of which are located within the boundaries of Wiseburn ESD.

The LACOE, in 2002, analyzed the effects of the proposed unification on the nine required conditions for approval listed in EC Section 35753(a). This analysis determined that eight of the nine conditions were substantially met, and the one remaining condition (equitable distribution of property) would be met if the election area for the proposal was the entire Centinela Valley UHSD.

The Los Angeles County Committee on School District Organization (County Committee) considered the recommendations of the LACOE and determined that the “equitable distribution of property” and the “fiscal status” conditions of EC Section 35753(a) were not substantially met. Despite this finding, the County Committee recommended approval of the unification proposal on a 4-3 vote. The County Committee further recommended that the election area be

expanded to the entire Centinela Valley UHSD. The LACOE subsequently transmitted the County Committee findings and recommendation to the SBE.

## **2.2 Previous Actions of the California State Board of Education**

The proposal to form a Wiseburn Unified School District (USD), along with a California Environmental Quality Act (CEQA) item, was presented to the SBE at its September 2004 meeting. At that meeting, the SBE approved the unification proposal. In October 2004, Centinela Valley UHSD filed legal action alleging the CEQA study for the proposal was inadequate. In December 2004, the court issued a preliminary injunction, enjoining further action on the proposal to create a new unified school district. The SBE and the CDE voluntarily determined that the review and evaluation of the environmental impact of the proposed new district was not compliant with the provisions of CEQA and, on January 13, 2005, the SBE rescinded its prior decision to approve the unification proposal.

To comply with CEQA, the CDE completed an Environmental Impact Report (EIR) for the proposed unification and again placed the Wiseburn unification proposal (and accompanying CEQA item) on the January 2010 SBE agenda. That item was pulled by joint decision of the CDE and SBE to allow time to respond to concerns from the Centinela Valley UHSD about the CEQA review. Both items were updated and placed on the May 2010 SBE meeting. The CDE recommended that the SBE approve the unification item, but also recommended that all voters in the Centinela Valley UHSD be allowed to vote on the unification proposal since the unification would have significant effects on the assessed valuation (AV) and General Obligation (GO) bonding capacity of that district. The Wiseburn ESD expressed concerns regarding the expanded election area and requested that the items be pulled from the agenda until a local agreement could be obtained regarding the AV and GO bonding capacity issues.

The Wiseburn ESD and the Centinela Valley UHSD, after two years of negotiations, sponsored Senate Bill (SB) 477 (Chapter 730, Statutes of 2011–12), effective January 1, 2013, that addressed concerns related to the unification proposal to the mutual satisfaction of both the Wiseburn ESD and the Centinela Valley UHSD.

## **2.3 Senate Bill 477**

SB 477 was written to address the unique circumstance of the proposal to form a Wiseburn USD from the Wiseburn ESD and corresponding territory of the Centinela Valley UHSD. The Wiseburn ESD is in close proximity to the Los Angeles International Airport and many aerospace businesses and industries (e.g., Northrop Grumman, Raytheon, Boeing, Lockheed), along with other light to heavy industrial and manufacturing industries and commercial/retail businesses, are located within the boundaries of the Wiseburn ESD. As a result of this concentration of business and industry in Wiseburn ESD, the

proportion of the Centinela Valley UHSD assessed valuation (AV) that is located within the Wiseburn ESD is extremely disproportional to the proportion of the Centinela Valley UHSD enrollment from the Wiseburn ESD. In the previous analyses prepared by the CDE, it was reported that the proportion of AV was over 45 percent, while the proportion of enrollment was less than five percent.

There are no Centinela Valley USD facilities located within the boundaries of the Wiseburn ESD. Thus (pursuant to *EC* Section 35575), if the Wiseburn unification proposal was approved, the property owners in the Wiseburn ESD would have no obligation to repay any of the existing, and substantial, GO bonded indebtedness of the Centinela Valley UHSD—resulting in a significant increase in property taxes for the property owners in the remaining portion of the Centinela Valley UHSD as these remaining owners would bear the entire obligation for repaying the GO bonded indebtedness that had been approved by Centinela Valley UHSD voters (including voters from the Wiseburn ESD).

*EC* Section 35738 offers a partial solution. The SBE is allowed to include a provision in the plans and recommendations of the unification proposal to allow for a more equitable division of the outstanding bonded indebtedness of the Centinela Valley UHSD. The CDE included a recommendation in its previous analyses that the SBE include a provision that the Wiseburn ESD property owners would retain existing obligations for the outstanding bonded indebtedness of the Centinela Valley UHSD after a successful unification.

However, there is no provision in the *EC* for the SBE to provide for a similar solution to the repayment of voter-authorized bonds that had not yet been issued by the Centinela Valley UHSD. Moreover, removal of the Wiseburn ESD portion of the high school district's AV would substantially lower that district's legally allowed limit for future GO bond issues. That concern also cannot be addressed by the SBE. It was because of these effects on the Centinela Valley UHSD that the CDE had previously recommended that, if the SBE approved the Wiseburn unification proposal, it also expand the election area to allow all voters in the Centinela Valley UHSD an opportunity to vote on the proposal.

SB 477 (jointly developed by the Centinela Valley UHSD and the Wiseburn ESD) addresses, among other issues, these concerns. It provides for the following if the unification proposal is approved:

- Property owners in the Wiseburn ESD will retain obligations to retire authorized, but unissued, bonds that were approved by all voters of the current Centinela Valley UHSD.
- The Centinela Valley UHSD will allocate \$4 million in bond proceeds to a Wiseburn USD to ensure that Wiseburn USD taxpayers receive a benefit for their continued obligation toward repaying the bonded indebtedness of the high school district.

- The future bonding limit of the Centinela Valley UHSD will be protected by requiring that such limit be equal to the limit as applied to all taxable property within Centinela Valley UHSD plus the limit as applied to all taxable property within the Wiseburn ESD other than real property zoned for residential purposes.
- A Joint Powers Agreement (JPA) and a Schools Facility Improvement District will be used to validate the above bonding limits. SB 477 addresses JPA circumstances unique to the Wiseburn unification.
- Any student residing within a Wiseburn USD will be able to attend schools in Centinela Valley UHSD without an interdistrict attendance agreement if the high school district accepts the student.
- If the SBE approves the Wiseburn unification proposal, the election area will be limited to the Wiseburn ESD.

### **3.0 REASONS FOR THE UNIFICATION**

The chief petitioners cite the following reasons for the proposed Wiseburn USD:

- A desire to establish a unified school district that will be responsive to the unique needs of the Wiseburn student population to have safe, small, and academically successful schools.
- A desire to provide a coordinated sequential educational program from preschool through twelfth grade.
- A belief that unification will increase collaboration among elementary staff, secondary staff, and the community in the pursuit of national, state, county, and local educational agencies.
- A desire for a unified educational system whereby educational expectations and accountability are driven by a single board of trustees and a single administration representing the Wiseburn community.
- A belief that unification will provide a more effective use of district resources.
- A desire to establish a high school to serve the Wiseburn community.

## **4.0 POSITIONS OF SCHOOL DISTRICTS**

### **4.1 Centinela Valley Union High School District**

Although the Centinela Valley UHSD opposed the unification proposal in past years, the legislation (SB 477) jointly prepared by the district with the Wiseburn ESD addresses the high school district's previous concerns. The Centinela Valley UHSD no longer opposes the Wiseburn unification proposal.

### **4.2 Wiseburn Elementary School District**

The Wiseburn ESD supports the proposal, finding that the proposal meets all conditions of *EC* Section 35753(a) and that "creation of such a district will provide enhanced continuity and articulation and will enrich the educational lives of children from the Wiseburn community."

## **5.0 EC SECTION 35753 CONDITIONS**

The SBE may approve proposals for the reorganization of districts if the SBE has determined the proposal substantially meets the nine conditions in *EC* Section 35753. Those conditions are further clarified by *California Code of Regulations*, Title 5 (5 *CCR*), Section 18573.

The SBE also may approve proposals if it finds that all *EC* Section 35753 conditions are not substantially met, but subsequently "determines that it is not practical or possible to apply the criteria of this section literally, and that the circumstances with respect to the proposals provide an exceptional situation sufficient to justify approval..." (*EC* Section 35753[b]).

For its analysis of the current proposal, the CDE reviewed studies of specific issues related to the proposal, previous (2004, 2010) CDE analyses, and updated information provided by LACOE, the affected school districts, and other agencies. Staff findings and conclusions regarding the *EC* Section 35753 and 5 *CCR* conditions follow:

### **5.1 The reorganized districts will be adequate in terms of number of pupils enrolled.**

#### **Standard of Review**

It is the intent of the SBE that direct service districts not be created which will become more dependent upon county offices of education and state support unless unusual circumstances exist. Therefore, each district affected must be adequate in terms of numbers of pupils, in that each such district should have the following projected enrollment on the date the proposal becomes effective or any new district becomes effective for all purposes: elementary district, 901; high school district, 301; unified district, 1,501 (5 *CCR* Section 18573[a][1][A]).

## County Committee Evaluation/Vote

The 2002 report prepared by LACOE for the County Committee (hereinafter referred to as “2002 feasibility study”) indicates that the petition met this requirement.

The County Committee voted unanimously (7-0) that this criterion was substantially met.

## Findings/Conclusion

As stated previously, a new unified district is adequate in terms of number of pupils if projected enrollment is 1,501 or greater on the date the new district becomes effective for all purposes. Enrollment must be 301 for high school districts. The following table depicts the past five years of enrollment in the two affected districts (from the California Basic Educational Data System [CBEDS]).

### Historical Enrollments\*

Year	Wiseburn ESD	Centinela Valley UHSD
2008–09	2,273	7,333
2009–10	2,416	6,787
2010–11	2,510	6,618
2011–12	2,780	6,636
2012–13	2,815	6,637

\* Wiseburn ESD enrollment values do not include enrollment in charter high schools (which opened in 2009–10). Charter high school enrollment for 2011–12 was 1,061.

Over the time period shown in the above table, kindergarten through eighth grade (K-8) enrollment increased by 23.8 percent for the Wiseburn ESD (note that interdistrict transfer agreement enrollment accounts for about 49 percent of the total Wiseburn ESD enrollment). Over this same time period, enrollment in the Centinela Valley UHSD declined by 9.5 percent. The greatest portion of this decline (7.7 percent) occurred in the 2009–10 year, which was the first year that the Wiseburn ESD began providing educational services to high school students (Wiseburn ESD enrolled 433 ninth and tenth grade students in its two charter high schools that year). Since that 2009–10 year, enrollment in Centinela Valley UHSD has declined about 2 percent, with enrollment increasing slightly in 2011–12 and 2012–13.

The new unified school district, if approved by the SBE and at a 2013 election, will be in operation on July 1, 2014. The CDE concludes that the new district will have adequate enrollment to meet the requirement of this condition (enrollment of 1,501).



Furthermore, the CDE concludes that enrollment in the Centinela Valley UHSD will meet the requirement of this condition (minimum enrollment of 301). For the current school year, fewer than 100 Centinela Valley UHSD students reside within the boundaries of the Wiseburn ESD. Thus, the proposed unification will not remove a significant number of students from the high school district. According to the Wiseburn ESD, only 17 students graduating from the 2011–12 Wiseburn ESD eighth grade became Centinela Valley UHSD ninth graders in 2012–13. The remainder attend the Wiseburn ESD charter high schools, other charter schools, or other high schools on interdistrict attendance agreements.

This condition is substantially met.

## **5.2 The districts are each organized on the basis of a substantial community identity.**

### **Standard of Review**

The following criteria from 5 CCR Section 18573(a)(2) should be considered to determine whether a new district is organized on the basis of substantial community identity: isolation; geography; distance between social centers; distance between school centers; topography; weather; community, school and social ties; and other circumstances peculiar to the area.

### **County Committee Evaluation/Vote**

The 2002 feasibility study reported that the Wiseburn ESD is comprised of unincorporated areas of Los Angeles County and portions of the cities of Hawthorne and El Segundo. The LACOE further noted that, although the proposed new unified district is not located within a single municipality, residents in the area receive services from many common public service providers, share common social and community centers, and frequent common business establishments.

The feasibility study concluded that the proposal substantially met this condition. The County Committee voted unanimously (7-0) that this condition was substantially met.

### **Findings/Conclusion**

As is the case in most relatively compact urban/suburban settings, the 5 CCR criteria of isolation, geography, and weather are not applicable to the analysis of substantial community identity. No further discussion of these criteria is warranted, as they cannot be used to define community identity in this particular reorganization proposal.

The new unified district would correspond to the boundaries of an existing elementary school district. Therefore, separate and distinct educational

communities already exist. In the past, the elementary school district within the high school district has played an important role in establishing the community identity of the area. The new unified district should continue that role. Similarly, the remaining Centinela Valley UHSD would share common boundaries with its three other component elementary districts.

For 2009–10, the Wiseburn ESD opened two new charter high schools within its boundaries. These charter schools establish a high school education identity within the elementary school district, which should contribute to the ability of a new unified school district to maintain a community identity based on school district boundaries.

The CDE finds that the districts would be organized on the basis of a substantial community identity since the proposed Wiseburn USD and the remaining Centinela Valley UHSD would correspond to existing school district boundaries—a Wiseburn USD corresponding to the boundaries of the current Wiseburn ESD and the Centinela Valley UHSD corresponding to the boundaries of the remaining three component districts (Hawthorne, Lawndale, and Lennox).

The CDE concludes that this condition is substantially met.

### **5.3 The proposal will result in an equitable division of property and facilities of the original district or districts.**

#### **Standard of Review**

To determine whether an equitable division of property and facilities will occur, the CDE reviews the proposal for compliance with *EC* sections 35560 and 35564 and determines which of the criteria authorized in *EC* Section 35736 shall be applied. The CDE also ascertains that the affected districts and county office of education are prepared to appoint the committee described in *EC* Section 35565 to settle disputes arising from such division of property (5 *CCR* Section 18573[a][3]).

#### **County Committee Evaluation/Vote**

The 2002 feasibility study addressed the following issues in its analysis of division of property and facilities:

##### **(a) Property, Funds, and Obligations**

There is no Centinela Valley UHSD real property located within the boundaries of the proposed Wiseburn USD. Thus, the Wiseburn USD would not take ownership of any Centinela Valley UHSD school sites. The feasibility study did not address the division of all other property, funds, and obligations (except bonded indebtedness) of the Centinela Valley UHSD.

(b) Bonded Indebtedness

Voters in the Centinela Valley UHSD had approved \$59 million in general obligation bonds in March 2000. At the time of the LACOE study, the district had issued \$18.8 million to fund ongoing facility projects and planned to issue the remaining bonds in April 2002 (\$23 million) and January 2003 (\$17.2 million). Since there are no Centinela Valley UHSD school facilities or property located within the boundaries of the proposed unified district, the property owners within the Wiseburn USD would drop any liability for the bonded indebtedness of Centinela Valley UHSD.

Voters in Wiseburn ESD approved bonds at the March 1997 and June 2000 elections. At the time of the LACOE study, the district had fully issued its \$39.1 million in approved bonds. Liability for this bonded indebtedness would remain with the property owners within the current Wiseburn ESD if the unification proposal is approved.

The 2002 feasibility study noted that the proposed unification would remove approximately 40 percent of the assessed valuation from Centinela Valley UHSD, which would result in a corresponding 40 percent reduction in the district's bonding capacity. This reduction would leave Centinela Valley UHSD with a bonding capacity of about \$53.4 million. Thus, the district would exceed its bonding capacity if the district issued all \$59 million in voter approved bonds. Based on 2001–02 information, the Los Angeles County Auditor-Controller estimated that this condition would remain for about six years until property values appreciate.

(c) Student Body Funds

The 2002 feasibility study notes that a share of student body funds at Centinela Valley UHSD schools would transfer to the proposed Wiseburn USD. This share would correspond to the proportion of high school students transferring to the new unified district.

As noted earlier, LACOE found that, in 2002, the proposed unification would result in the reduction of approximately 40 percent of the assessed valuation of the Centinela Valley UHSD. Since no secondary school facilities would transfer to the Wiseburn USD, none of the responsibility for the high school district's outstanding bonded indebtedness would transfer to the new unified district. As a result, property owners in the remaining Centinela Valley UHSD would absorb a significant increase in tax rates to support the district's bonded indebtedness (\$18.8 million) that existed in 2001–02. That tax rate would increase to a much greater degree if the district issued all \$59 million of its general obligation bonds.

Because the proposed unification would increase tax rates for the property owners in the remaining Centinela Valley UHSD, LACOE recommended that this condition is substantially met only if the election area for the unification proposal is expanded to include all of the voters in the Centinela Valley UHSD (thus allowing these voters an opportunity to vote on an issue that would result in increased tax rates for property owners in the area).

The County Committee voted 4-3 that this condition is not substantially met.

### **Findings/Conclusion**

The CDE finds that existing *EC* provisions may be utilized to achieve equitable distribution of relevant property, funds, and obligations of Centinela Valley UHSD. The CDE recommends the following regarding this distribution:

- (a) All assets and liabilities of the Centinela Valley UHSD shall be divided based on the proportionate average daily attendance (ADA) of the high school students residing in the areas of the two districts on June 30 of the school year immediately preceding the date on which the proposed unification becomes effective for all purposes (*EC* Section 35736).
- (b) Student body property, funds, and obligations shall be divided proportionately, each share not to exceed an amount equal to the ratio of the number of pupils leaving the schools to the total number of pupils enrolled. Funds from bequests or gifts made to the organized student body of a school shall remain the property of the organized student body of that school and shall not be divided (*EC* Section 35564).
- (c) As specified in *EC* Section 35565, disputes arising from the division of property, funds, or obligations shall be resolved by the affected school districts and the county superintendent of schools through a board of arbitrators. The board shall consist of one person appointed by each district and one by the county superintendent of schools. By mutual accord, the county member may act as sole arbitrator. Expenses will be divided equally between the districts. The written findings and determination of the majority of the board of arbitrators is final, binding, and may not be appealed.

Issues regarding reallocation of the bonded indebtedness of the Centinela Valley UHSD also are addressed in the *EC*. As noted previously, SB 477 established the following:

- Property owners in the Wiseburn ESD will retain obligations to retire authorized, but unissued, bonds that were approved by all voters of the current Centinela Valley UHSD.
- The Centinela Valley UHSD will allocate \$4 million in bond proceeds to a Wiseburn USD to ensure that Wiseburn USD taxpayers receive a

benefit for their continued obligation toward repaying the bonded indebtedness of the high school district.

- The future bonding limit of the Centinela Valley UHSD will be protected by requiring that such limit be equal to the limit as applied to all taxable property within Centinela Valley UHSD plus the limit as applied to all taxable property within the Wiseburn ESD other than real property zoned for residential purposes.

SB 477 does not directly address the allocation of bonded indebtedness that already has been issued by the Centinela Valley UHSD—in the past two years, the Centinela Valley UHSD issued approximately \$98 million in GO Bonds (\$26 million in July 2011 and \$72 million in May 2012). *EC* Section 35738 provides the SBE with authority to add a provision to the plans and recommendations of the unification proposal, which stipulate that property owners in the Wiseburn ESD retain existing levels of liability for Centinela Valley UHSD outstanding bonded indebtedness subsequent to the formation of a Wiseburn USD. If this provision is included, the concerns that CDE has regarding the remaining Centinela Valley UHSD property owners significant increase in obligations for the district's bonded indebtedness would be mitigated.

The CDE determines that this condition is substantially met if the SBE includes a provision in the plans and recommendations stipulating that property owners in the Wiseburn ESD retain existing levels of liability for Centinela Valley UHSD bonded indebtedness subsequent to the formation of a Wiseburn USD.

**5.4 The reorganization of the districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.**

**Standard of Review**

In 5 *CCR* Section 18573(a)(4), the SBE set forth five factors to be considered in determining whether reorganization will promote racial or ethnic discrimination or segregation:

- (a) The current number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts, compared with the number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts if the proposal or petition were approved.
- (b) The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the total district, and in each school of the affected districts.

- (c) The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts and the effect of the proposal or petition on any desegregation plan or program of the affected districts, whether voluntary or court ordered, designed to prevent or alleviate racial or ethnic discrimination or segregation.
- (d) The effect of factors such as distance between schools and attendance centers, terrain, geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an effect on the feasibility of integration of the affected schools.
- (e) The effect of the proposal on the duty of the governing board of each of the affected districts to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of its cause.

### County Committee Evaluation/Vote

The following table presents a summary of the 2001–02 ethnic enrollment data that was considered by the County Committee in 2002.

2001–02 Ethnic Enrollment in Affected Districts

	<b>Minority Students</b>	<b>White Students</b>
Centinela Valley UHSD	6,617 (95.0%)	347 (5.0%)
Centinela Valley UHSD students within Wiseburn area	208 (77.9%)	59 (22.1%)
Wiseburn ESD	1,309 (72.1%)	507 (27.9%)

Source: Ethnic profile information provided by districts

As depicted in the above table, 95 percent of the students enrolled in Centinela Valley UHSD in 2001–02 were minority students and almost 78 percent of the high school students who resided within the area of Wiseburn ESD were minority students. In the Wiseburn ESD, 72.1 percent of the K–8 students were minority.

The following table compares the percent of minority students in both districts before the proposed unification with the percent after the unification.

#### 2001–02 Percent Minority Students in Affected Districts

	<b>Minority Students</b>	<b>White Students</b>
<b>Before Unification</b>		
Centinela Valley UHSD	6,617 (95.0%)	347 (5.0%)
Wiseburn ESD	1,309 (72.1%)	507 (27.9%)
<b>After Unification</b>		
Centinela Valley UHSD	6,409 (95.7%)	288 (4.3%)
Wiseburn USD	1,517 (72.8%)	566 (27.2%)

For both districts, the proposed unification would cause less than a 1 percent increase in the minority student population.

LACOE found that both affected districts had a substantial majority of minority students and the proposed reorganization would have little effect on that status. The unification would increase minority student enrollment in each district by less than 1 percent. Therefore, LACOE, in 2002, recommended that this condition was substantially met.

The County Committee voted 6-1 that this condition was substantially met.

#### Findings/Conclusion

Previous CDE analyses of this condition supported the finding of the County Committee. Conditions have not changed significantly for the current analysis. The following table contains a summary of the three analyses completed by CDE.

#### Percent Minority Enrollment in Affected Districts/School

<b>Analysis Year</b>	<b>Wiseburn ESD</b>	<b>Centinela Valley UHSD</b>		<b>Hawthorne High School</b>	
		<b>Before Unification</b>	<b>After Unification</b>	<b>Before Unification</b>	<b>After Unification</b>
2004	73.0%	95.2%	95.8%	94.4%	95.9%
2010	81.5%	96.6%	97.2%	96.6%	98.3%
2013	84.4%	96.8%	97.5%	97.3%	98.1%

Source: Educational Data Partnership

Based on the above findings, the CDE determines that the proposed unification will not substantially promote racial or ethnic segregation or discrimination in any affected district or school, and agrees with the County Committee that this condition is substantially met.

**5.5 Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.**

**Standard of Review**

*EC* sections 35735 through 35735.2 mandate a method of computing revenue limits without regard to this criterion. Although the estimated revenue limit is considered in this section, only potential costs to the state other than those mandated by *EC* sections 35735 through 35735.2 are used to analyze the proposal for compliance with this criterion.

**County Committee Evaluation/Vote**

The feasibility study included a calculation of the projected revenue limit for the proposed Wiseburn USD. Based on the calculations, the County Committee determined that unification of the Wiseburn ESD would have increased the revenue limit for that area by 10 percent over the blended base revenue limit of the Wiseburn ESD and the Centinela Valley UHSD.

The County Committee voted unanimously (7-0) that this condition was substantially met.

**Findings/Conclusion**

The 2011–12 base revenue limits (per unit of average daily attendance [ADA]) of the Wiseburn ESD and the Centinela Valley UHSD are \$6,382 and \$7,481, respectively. Pursuant to *EC* Section 35735, the Los Angeles County Superintendent of Schools (County Superintendent) has determined that the new blended base revenue limit for a Wiseburn USD is \$6,670 per ADA and is eligible for adjustments due to the higher average salaries and benefits of Centinela Valley UHSD staff. Those adjustments, which are capped by the *EC* at 10 percent of the base revenue limit, will increase the base revenue limit per ADA of the new district to \$7,337. This calculation is based on the 2011–12 data and, if the unification is approved, the CDE will recalculate the revenue limit for the new unified district based on information from two years prior to the effective date of the new school district. Since this revenue limit is required by statute, the CDE does not consider any increase to be a significant increase in costs to the state.

Other state costs for transportation, categorical programs, and special education should not be affected significantly by the proposed reorganization since, typically, funding for these programs would follow the students.

The California Legislature currently is considering a proposal by the Governor to change the existing revenue limit funding mechanism to a Local Control Funding Formula (LCFF) that would consist of a base per pupil grant augmented by supplemental and concentration funding determined by



student demographics. The current version of the LCFF would “hold-harmless” those newly formed school districts that are reorganized prior to July 1, 2013. Thus, it is the opinion of the CDE that the increased revenue limit will be incorporated into the LCFF for a new Wiseburn USD if the SBE approves this unification proposal at its May 2013 meeting.

The CDE agrees with the County Committee that the proposal substantially meets this condition.

**5.6 The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.**

**Standard of Review**

The proposal or petition shall not have a significantly adverse effect on the educational programs of districts affected by the proposal or petition, and the California Department of Education shall describe the district-wide programs, and the school site programs, in schools not a part of the proposal or petition that will be adversely affected by the proposal or petition (5 CCR Section 18573[a][5]).

**County Committee Evaluation/Vote**

The 2002 feasibility study projected that, should the proposed unification occur, Centinela Valley UHSD would lose 288 high school students to the new unified school district by 2003–04. The study also noted that projected annual enrollment would mitigate that student enrollment loss so that the actual loss of students in the first year of the reorganization would be 184 students. The loss of students would result in a revenue limit decrease of approximately \$975,000. However, this would be a one-year revenue loss because the high school district’s enrollment was projected to increase above the pre-unification level in the subsequent year. Since the revenue loss was projected to be for only one year and the Centinela Valley UHSD would have sufficient notice to adjust staffing levels, LACOE found that the proposed unification would not have a significant negative effect on the fiscal status of the high school district.

As noted previously, LACOE calculated that the Wiseburn USD revenue limit would be 10 percent greater than the blended revenue limit of Wiseburn ESD and Centinela Valley UHSD. The resultant revenue limit would be greater than similar sized unified districts.

The LACOE concluded that the remaining Centinela Valley UHSD and the Wiseburn USD would have adequate enrollment to generate necessary revenues to continue to support educational programs and therefore recommended that this condition is substantially met.

The County Committee voted 4-3 that this condition is substantially met.

## Findings/Conclusion

Previous analyses of this condition prepared by the CDE concurred with the LACOE recommendation for the unification proposal that this condition is substantially met. The following sections provide a current update to CDE's previous analyses.

### (a) Students at school level

Centinela Valley UHSD reports that, historically, Wiseburn ESD students identify with Hawthorne High School. This high school will be most significantly impacted by the unification. Fewer than 100 students from the Wiseburn ESD attend the Centinela Valley UHSD, with approximately 81 percent of the 100 at Hawthorne High School. These 81 students represent 4.1 percent of the Hawthorne High School enrollment).

### (b) Performance Indicators

The California Academic Performance Index (API) provides a means to compare the performance of schools and districts in the state. NCLB requires schools to meet certain criteria to make Adequate Yearly Progress (AYP).

A summary of these performance indicators is incorporated into the following table for schools in the two affected districts.

2012 Performance Indicators

	2012 API Growth	Met API Growth Targets?	Met 2012 AYP Criteria?
<b>Centinela Valley UHSD</b>	701	N/A	No
Hawthorne High	680	Yes	No
Lawndale High	760	Yes	No
Leuzinger High	700	Yes	No
<b>Wiseburn ESD</b>	882	N/A	No
Burnett Elementary	872	Yes	Yes
Cabrillo Elementary	906	Yes	No
De Anza Elementary	882	Yes	No
Dana Middle	883	Yes	Yes
Da Vinci Design High	746	N/A	No
Da Vinci Science High	777	N/A	No

Source: CDE Accountability Progress Reporting

(c) Program Improvement

As noted in the following table, the Centinela Valley UHSD is in its third year of Program Improvement (PI), while Hawthorne High School remains in PI status (fifth year). As such, Hawthorne High School is required to comply with specific corrective actions, including offering school choice to students attending the school.

2012 Program Improvement Status

	In PI?	PI Year
<b>Centinela Valley UHSD</b>	Yes	Year 3
Hawthorne High	Yes	Year 5
Lawndale High	No	N/A
Leuzinger High	Yes	Year 5
<b>Wiseburn ESD</b>	No	N/A
Burnett Elementary	No	N/A
Cabrillo Elementary	No	N/A
De Anza Elementary	Not Title 1	N/A
Dana Middle	Not Title 1	N/A
Da Vinci Design High	Not Title 1	N/A
Da Vinci Science High	Not Title 1	N/A

Source: CDE Accountability Progress Reporting

(d) Special Programs

The percentage of students eligible for special programs such as English Language Learners (ELL) and Free/Reduced Price Meals (FRPM) can affect educational programming as well as district- and school-wide academic performance. The following table displays Special Programs data for the affected school districts.

Special Programs Data

School/District	Percent ELL*	Percent in FRPM** Program
Centinela Valley USD	20.8%	83.2%
Wiseburn ESD	11.1%	41.4%

\* 2009–10 data is used because 2011–12 ELL data is only partially available from the CDE at the time this report was prepared and the Centinela Valley UHSD did not certify its 2010–11 ELL data.

\*\* 2010–11 data is used because 2011–12 FRPM data is not available from the CDE at the time this report was prepared

Source: Educational Data Partnership

It is difficult to compare an elementary school district with a high school district on percentages of ELL due to declining participation in the program as students move from the elementary to high school level. However, the data presented above suggests that students in the Wiseburn ESD are less likely to be enrolled in the special programs listed in the above table than are students in the Centinela Valley UHSD.

Because fewer than 100 students attend Centinela Valley UHSD, approximately 11 students would be removed from the Centinela Valley UHSD ELL program and approximately 41 students from the FRPM program would be removed. These changes would not significantly increase the concentration of students in Centinela Valley UHSD special programs.

(e) Charter High Schools

For the 2011–12 school year, six charter high schools, chartered through the four component elementary school districts of Centinela Valley UHSD and with a combined enrollment of 3,157, are in existence within the boundaries of the high school district. The two newest charter high schools were opened by the Wiseburn ESD for the 2009–10 year.

Because the demographics of Wiseburn ESD are somewhat different than the demographics of the high school district, the unification could pull from Centinela Valley UHSD proportionally: (1) more students with higher test scores, (2) fewer ELL students, and (3) fewer students in the FRPM Program. Although these numbers are disproportional to the demographics of the Centinela Valley UHSD, the numbers of students should not be great enough to significantly increase the proportion of students requiring special opportunities and services in the high school district.

As a note, staff believes that not all of the students currently residing in the Wiseburn area and attending the Centinela Valley UHSD would leave that district if the proposed unification were successful. Some students (especially juniors and seniors) may be reluctant to transfer from schools that they are already attending if the new unified district opens a new high school. SB 477 would not only allow these students to attend their current high school but also would allow any high school student residing within a new Wiseburn USD to attend Centinela Valley UHSD. Moreover, most newly unified districts typically begin the first year of operation serving only ninth graders (or ninth and tenth graders). Additional grade levels are added in subsequent years. Thus, for the first year or two of existence of a new unified school district, loss of students from high school academic programs (especially from the upper grades) probably will not match the total number of secondary students living in the Wiseburn area.

The current and projected fiscal condition of the Centinela Valley UHSD (see section 5.9 of this attachment) may present some educational program challenges for that district. A 1.5 percent reduction in enrollment for the Centinela Valley UHSD, due to the proposed unification, will result in a loss of revenue limit funding. However, the complete loss of Wiseburn students (and resultant loss of revenue) due to the proposed unification may not materialize in the first year or two of operation of a new unified school district. The loss of revenue could increase the challenges to the district in maintaining educational programs; however, it is uncertain at this time what actions the governing board of the Centinela Valley UHSD will take in responding to the fiscal challenges, and what direct effect those actions may have on its educational program.

For the above reasons, staff recommends that, although the proposed unification may create challenges to maintaining the Centinela Valley UHSD educational program, Condition 6 is substantially met.

**5.7 The proposed reorganization will not result in a significant increase in school housing costs.**

**County Committee Evaluation/Vote**

The 2002 feasibility study reports that, although no high school facility exists within the boundaries of the proposed Wiseburn USD, there is a seven acre school site owned by the elementary district that can be converted to high school purposes. The study further reports that a park and gymnasium located next to the school property could be used for school purposes. At the time of the LACOE study, Wiseburn ESD was leasing this school site to other agencies.

The LACOE found, in 2002, that a Wiseburn USD would have the option to lease portable classrooms through the State Relocation Classroom Program to house high school students on the property owned by the elementary district. The cost to place 14 portable classrooms (not including any necessary site improvement cost prior to this placement) was estimated to be \$186,300. LACOE determined that this expenditure did not represent a significant increase in school housing costs and, as a result, recommended that this condition is substantially met.

The County Committee voted 7-0 that this condition is substantially met.

**Findings/Conclusion**

Previous CDE reviews of this condition assumed a new Wiseburn USD would convert an existing middle school site to provide a small (less than 800 students) high school. The CDE concluded that such conversion would not significantly increase school housing costs.

Subsequently, Wiseburn ESD moved forward with plans for a comprehensive high school in anticipation that the SBE would approve the Wiseburn unification proposal. As part of these plans, the district identified a site for the new high school and contracted for an Environmental Impact Report (EIR) to address the potential impacts of renovating the building located on this site to meet standards for a high school. Thus, the funding for a new high school already is in place and the district has begun preliminary work toward providing the facility. Moreover, the Wiseburn ESD voters approved an \$87 million GO bond for the purposes of building a “modern high school that accommodates all Wiseburn children.”

With the plans and funding for a new high school already in place, CDE staff agrees with the finding of the County Committee that this condition is substantially met.

**5.8 The proposed reorganization is primarily designed for purposes other than to significantly increase property values.**

**County Committee Evaluation/Vote**

The 2002 feasibility study identified no evidence that the proposal is primarily designed to increase property values in the territory proposed for reorganization and recommended that this condition is substantially met.

The County Committee voted unanimously (7-0) that this condition is substantially met.

**Findings/Conclusion**

No evidence was presented in 2004, 2010, or during the current review, to indicate that the proposed formation of the Wiseburn USD would increase property values in the petition area. Nor is there any evidence from which it can be discerned that an increase in property values could be the primary motivation for the proposed unification. Staff concludes this condition has been substantially met.

**5.9 The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.**

**County Committee Evaluation/Vote**

The 2002 feasibility study concluded that the remaining Centinela Valley UHSD and the newly formed Wiseburn USD would have adequate enrollment to generate necessary revenues to continue to support educational programs and therefore recommended that this condition is substantially met.

The County Committee considered the effects of the proposal on bonded indebtedness levels in the districts and potential loss of operating revenues for the high school district due to the reduction in student enrollment. The County Committee determined that these factors constituted a negative fiscal effect on the high school district and voted 4-3 that this condition is not substantially met.

## **Findings and Conclusions**

The CDE has reviewed the fiscal status of Wiseburn ESD and Centinela Valley UHSD several times since 2004. While in each the previous three reviews (2004, 2009, and 2010) the CDE found this condition met, the CDE did express concerns regarding the fiscal health of Centinela Valley UHSD but found mitigating conditions to those concerns.

Both districts are fiscally healthy at this time, and both have positive certifications of their 2012–13 first interim reports, as confirmed by the LACOE. School districts are required to file two interim reports during each fiscal year and certify whether: (1) the district is able to meet its fiscal obligations for the current and two subsequent fiscal years (positive certification), (2) the district may not meet its fiscal obligations for the current or two subsequent fiscal years (qualified certification), or (3) the district will be unable to meet its fiscal obligations for the current or subsequent fiscal year (negative certification). A county superintendent may accept a district's report or may change the certification if it is determined that conditions warrant a change.

Based on its first interim report, Centinela Valley UHSD is projecting an operating deficit of \$1.26 million, representing 2.01 percent of the projected expenditures and other outgo for fiscal year 2012–13. The district also projects operating deficits of \$1.97 million and \$1.40 million for 2013–14 and 2014–15, respectively. These deficits are primarily due to special education encroachment. In spite of this deficit spending, however, the district is projected to maintain adequate reserves in all three years. The district's projected available reserves are 8.45 percent of current year total expenditures and other financial uses in the current year, and 5.27 percent and 3.26 percent in the next two years, respectively; all three years exceed the State's recommended reserve level of three percent for a district of its size.

CDE finds that both districts will have sufficient student enrollment to generate the funding necessary for the districts to be financially viable. As seen in the following table, Centinela Valley UHSD has been declining in enrollment, going from a high of 8,145 in 2004–05 to a current year enrollment of 6,637, a reduction of over 18 percent in eight years. A significant portion of that reduction, almost six percent, came in 2009–10 when Wiseburn ESD opened two charter high schools.

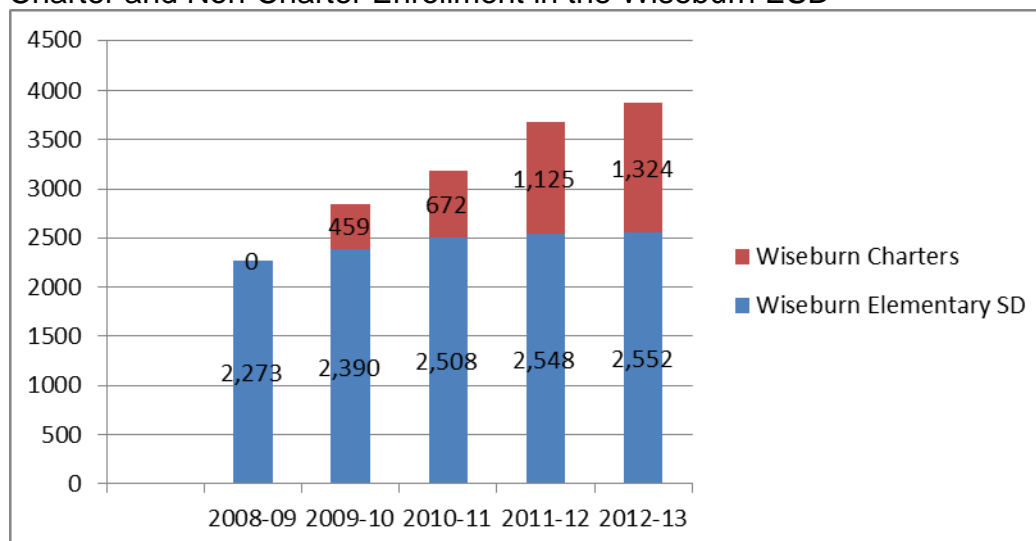
### Historical Enrollment for Affected Districts

	Wiseburn ESD			Centinela Valley UHSD		
Year	Enrollment	Change	Percent	Enrollment	Change	Percent
2004–05	2,102			8,145		
2005–06	2,156	54	2.6%	8,000	-145	-1.8%
2006–07	2,132	-24	-1.1%	7,586	-414	-5.2%
2007–08	2,196	64	3.0%	7,648	62	0.8%
2008–09	2,273	77	3.5%	7,333	-315	-4.1%
2009–10*	2,849	576	25.3%	6,787	-546	-7.4%
2010–11	3,180	331	11.6%	6,618	-169	-2.5%
2011–12	3,673	493	15.5%	6,636	18	0.3%
2012–13	3,876	203	5.5%	6,637	1	0.0%

\* Wiseburn ESD opened 2 charter high schools in 2009-10 with enrollment of 459

Wiseburn ESD's enrollment has grown by over 84 percent over the same period, with the district's two charter schools accounting for 63 percent of that growth; the chart below illustrates the growth in the district's K–8 schools versus the two charter high schools.

### Charter and Non-Charter Enrollment in the Wiseburn ESD



In previous analyses, the CDE estimated that Centinela Valley UHSD would lose approximately 295 students in the first year if the unification had been approved. Since the opening of two charter high schools by Wiseburn ESD in 2009–10, there are fewer Wiseburn residents attending Centinela Valley UHSD schools. Wiseburn ESD estimates the current number is between 75 and 100 students; from the 2011–12 Wiseburn ESD eighth grade graduating class, 17 students are currently attending Centinela Valley schools.

A reduction of 100 students represents 1.5 percent of current year enrollment. If all students left Centinela Valley UHSD in the first year, this would result in a revenue limit reduction of approximately \$481,000–\$641,000, which is



about one percent of the current general fund budget. There would also be unknown savings to offset the revenue loss, due to fewer students and lower operating costs. However, it is likely that some of the students currently attending Centinela Valley high schools, particularly the junior and senior classes, would finish high school in their current school. This would further mitigate any reduction.

Based on the current fiscal condition of both the Wiseburn ESD and the Centinela Valley UHSD, and the reduced potential impact of the reorganization on the number of students that may shift from Centinela Valley schools, the CDE finds this condition met.

## 6.0 COMPELLING REASONS FOR APPROVAL OF UNIFICATION PROPOSAL

Approval of any unification proposal by the SBE is a discretionary action, whether the SBE finds that all *EC* Section 35753 conditions are substantially met or even if all the conditions are not met. The following paragraphs describe compelling reasons for approval of the Wiseburn unification proposal for the SBE to consider.

- *Extensive charter school options already exist within Centinela Valley UHSD.* The community within Centinela Valley UHSD has had secondary school options for many years (see following table). Each of the high school district's four component elementary school districts now operates one or more charter high schools, a strong indicator of the need and desire for secondary education options.

Charter High Schools within Centinela Valley UHSD

Elementary District	Charter School	Year Opened	2011-12 Enrollment
Hawthorne	Hawthorne Math and Science Academy	2003–04	595
Lawndale	Environmental Charter High	2001–02	484
Lennox	Animo Leadership High	2000–01	620
Lennox	Lennox Mathematics, Science, and Technology Academy	2003–04	565
Wiseburn	Da Vinci Design	2009–10	414
Wiseburn	Da Vinci Science	2009–10	479

Source: California Basic Educational Data System, (CBEDS)

These six charter high schools, in 2011–12, enrolled 3,157 students in grades 9–12 (almost half of the number of high school students served by the Centinela Valley UHSD). The charter high schools also have significant waiting lists.

The existence of these charter schools highlights the following:

- Many students have left the Centinela Valley UHSD district for other educational options and will continue to do so.
- Community members, as well as the elementary component districts, recognize a need for secondary education options.
- *Unification of the Wiseburn ESD would provide another secondary school option for the entire Centinela Valley UHSD area.* Wiseburn ESD strongly supports and readily approves interdistrict attendance agreements for students in grade K–8 (about 49 percent of the current Wiseburn ESD students attend on interdistrict attendance agreements) and likely would continue that tradition as a K–12 district.
- *The LACOE provides guidance to both affected districts regarding fiscal issues and will continue to provide guidance after the reorganization.* As provided under Assembly Bill 1200 (Chapter 1213, Statutes 1991), the county office will play a prominent role in overseeing the districts' fiscal health. If necessary, the county office will intervene if there is evidence of fiscal distress.

## **7.0 COUNTY COMMITTEE EC SECTION 35707 REQUIREMENTS**

The *EC* requires county committees to make certain findings and recommendations and to expeditiously transmit them along with the reorganization petition to the SBE. These required findings and recommendations are:

### **7.1 County Committee Recommendation for the Petition**

EC Section 35706 requires county committees to recommend to the SBE approval or disapproval of a petition for unification. The County Committee voted 4-3 to recommend approval of the proposal to form Wiseburn USD.

### **7.2 Effect on School District Organization of the County**

*EC* Section 35707 requires a county committee to report whether the proposal would adversely affect countywide school district organization. The County Committee voted 6-1 that the proposal would not adversely affect countywide school district organization.

### **7.3 County Committee Opinion Regarding EC Section 35753 Conditions**

A county committee must submit to the SBE its opinion regarding whether the proposal complies with the provisions of *EC* Section 35753. The County Committee found that seven of the nine conditions in *EC* Section 35753(a) are substantially met by the following votes:

- Adequate Enrollment (7-0);
- Community Identity (7-0);

- Promotion of Segregation (6-1);
- Increased Costs to State (7-0);
- Educational Program (4-3);
- Increased Housing Costs (7-0); and
- Increased Property Values (7-0).

The County Committee found that the remaining two conditions are not substantially met by the following votes:

- Equitable Division of Property (4-3); and
- Financial Effects (4-3).

## **8.0 STAFF RECOMMENDED AMENDMENTS TO THE PETITION**

The SBE has authority to make certain amendments to a proposal to reorganize school districts. CDE recommendations for amendments are:

### **8.1 Article 3 Amendments**

Petitioners may include, and county committees or the SBE may add or amend, any of the appropriate provisions specified in Article 3 of the *EC* (commencing with *EC* Section 35730). These provisions include:

#### **Membership of Governing Board**

A proposal for unification may include a provision for a governing board of seven members. The petition contains no provision addressing the size of the governing board. Thus, the governing board of a Wiseburn USD (if approved) would have five members.

#### **Trustee Areas**

The proposal for unification may include a provision for establishing trustee areas for the purpose of electing governing board members of the unified district. No provision regarding trustee areas for governing board elections is included in this petition. Therefore, governing board members of a Wiseburn USD (If approved) will be elected at-large.

#### **Election of Governing Board**

A proposal for unification may include a provision specifying that the election for the first governing board be held at the same time as the election on the unification of the school district. The petition does not contain such a provision. The *EC* also requires that, if this provision is included, the proposal specify the method whereby the length of the initial terms may be determined so that the governing board will ultimately have staggered terms that expire in years with regular election dates.

Staff believes that there are at least two advantages in holding the governing board election at the same time as the election on the unification proposal. First, only one election is required, which reduces local costs. Second, the earlier election of board members gives the new board at least an additional four months to prepare for the formation of the new district. Thus, CDE staff recommends that a provision specifying the election for the first governing board be held at the same time as the election on the unification of the school district be included as part of the unification proposal. Staff further recommends that the following method be employed to ensure the staggering of the terms of office for governing board members:

The three governing board candidates receiving the highest number of votes will have four-year terms and the two candidates receiving the next highest number of votes will have two-year terms. All terms will be for four years in subsequent governing board elections.

### **Computation of Base Revenue Limit**

A proposal for reorganization of school districts must include a computation of the base revenue limit per ADA for each reorganized district. The County Superintendent has determined that the new base revenue limit for a Wiseburn USD will be \$7,337 per average daily attendance (ten percent over the blended base revenue limit). This calculation is based on 2011–12 data and, if the unification is approved, the CDE will recalculate the revenue limit for the new unified district based on information from two years prior to the effective date of the new school district, including any adjustments for which the new district may be eligible.

### **Division of Property and Obligations**

A proposal for the division of property (other than real property) and obligations of any district whose territory is being divided among other districts may be included. As indicated in 5.3 of this attachment, CDE staff finds that existing provisions of the *EC* may be utilized to achieve equitable distribution of property, funds, and obligations (other than bonded indebtedness) of Centinela Valley UHSD. Staff further recommends the following:

- (a) All assets and liabilities of the Centinela Valley UHSD shall be divided based on the proportionate ADA of the students residing in the areas of the two affected districts on June 30 of the school year immediately preceding the date on which the proposed unification becomes effective for all purposes (*EC* Section 35736).
- (b) Student body property, funds, and obligations shall be divided proportionately, except that the share shall not exceed an amount equal to the ratio which the number of pupils leaving the schools bears to the total number of pupils enrolled; and funds from devises,

bequests, or gifts made to the organized student body of a school shall remain the property of the organized student body of that school and shall not be divided (*EC* Section 35564).

- (c) As specified in *EC* Section 35565, disputes arising from the division of property, funds, or obligations shall be resolved by the affected school districts and the county superintendent of schools through a board of arbitrators. The board shall consist of one person appointed by each district and one by the county superintendent of schools. By mutual accord, the county member may act as sole arbitrator; otherwise, arbitration will be the responsibility of the entire board. Expenses will be divided equally between the districts. The written findings and determination of the majority of the board of arbitrators is final, binding, and may not be appealed.

### **Method of Dividing Outstanding Bonded Indebtedness**

No public school property or buildings belonging to Centinela Valley UHSD are located within the boundaries of the proposed Wiseburn USD. Thus, pursuant to *EC* Section 35575, a Wiseburn USD would have no responsibility for any outstanding bonded indebtedness in Centinela Valley UHSD.

Section 5.3 of this attachment contains a discussion of a provision to require property owners in a Wiseburn USD to retain existing tax rates for bond interest and redemption on the outstanding bonded indebtedness of Centinela Valley UHSD, although taxpayers within a Wiseburn USD would receive no benefits from the proceeds of these bonds since no high school district facilities (or improvements to the facilities) funded by these bond proceeds would be within a Wiseburn USD. The CDE recommends that the SBE, should it approve the unification proposal, include the following provision in the plans and recommendations for the proposal:

The new unified school district formed from the territory of the current Wiseburn ESD shall pay the Centinela Valley UHSD a proportionate share, determined pursuant to *EC* Section 35576(b)(1), of the outstanding bonded indebtedness of the Centinela Valley UHSD that exists as of the date of the election for the proposal to form a new Wiseburn USD.

Establishing the date of the election as the date for determination of the level of outstanding bonded indebtedness will allow voters for the unification proposal to have access to the most accurate information regarding obligation for the debt.

## **8.2 Area of Election**

Typically, determination of the area in which the election for a reorganization proposal will be held is one of the provisions under *EC* Article 3 (commencing with *EC* Section 35730) that the SBE may add or amend. *EC* Section 35756

also indicates that, if the proposal will be sent to an election, the SBE must determine the area of election. However, as noted in Section 2.3, SB 477 has removed the authority of the SBE to establish the election area and requires that the election area be limited to voters residing within the boundaries of the current Wiseburn ESD.

## **9.0 STATE BOARD OF EDUCATION OPTIONS AND RECOMMENDED ACTION**

### **9.1 SBE Options**

The following paragraphs describe options that are available to the SBE (pursuant to *EC* sections 35753 and 35754).

- (a) The SBE may disapprove the proposal.
- (b) The SBE may approve the proposal if:
  - (1) It determines all the conditions in *EC* Section 35753(a) have been substantially met, or
  - (2) It determines the conditions in *EC* Section 35753(a) are not substantially met, but it is not possible to apply those conditions literally and an exceptional situation exists pursuant to *EC* Section 35753(b).

In either case, approval by the SBE is discretionary and the SBE, if it approves the unification proposal, should base such approval on local educational needs or concerns pursuant to *EC* Section 35500.

- (c) If the SBE approves the formation of the proposed districts, it may amend or include in the proposal any of the appropriate provisions of *EC* Article 3, commencing with *EC* Section 35730. In this case, several items would be incorporated into the proposal and also approved if the SBE approves the overall petition:
  - (1) That the governing board will have five members elected at-large with the first governing board election held at the same time as the election on unification. To ensure staggered terms of office, the three governing board candidates receiving the highest number of votes will have four-year terms and the two candidates receiving the next highest number of votes will have two-year terms.
  - (2) All assets and liabilities of the Centinela Valley UHSD shall be divided based on the proportionate ADA of the students residing in the areas of the new unified district and the remaining Centinela Valley UHSD on June 30 of the school year

immediately preceding the date on which the proposed unification becomes effective for all purposes.

- (3) A share of student body funds at Centinela Valley UHSD schools would transfer to the proposed Wiseburn USD. This share would correspond to the proportion of high school students transferring to the new unified district.
- (4) The new unified school district formed from the territory of the current Wiseburn ESD shall pay the Centinela Valley UHSD a proportionate share, determined pursuant to *EC* Section 35576(b)(1), of the outstanding bonded indebtedness of the Centinela Valley UHSD that exists as of the date of the election for the proposal to form a new Wiseburn USD.
- (5) That any disputes involving the division of property, funds, and obligations will be resolved through binding arbitration pursuant to *EC* Section 35565.

## **9.2 Recommended Action**

The CDE recommends that the SBE adopt the attached proposed resolution (Attachment 2) approving the petition to form a new unified (kindergarten through twelfth grade) school district from Wiseburn ESD and a portion of Centinela Valley UHSD. Attachment 2 includes the additional provisions to the plans and recommendations of the proposal that are recommended by the CDE in Section 8.0 of this report.

CALIFORNIA STATE BOARD OF EDUCATION  
May 2013

PROPOSED RESOLUTION

Petition to Form a Wiseburn Unified School District  
from the Wiseburn Elementary School District and the  
Corresponding Portion of Centinela Valley Union High School District  
in Los Angeles County

WHEREAS, a proposal to form a new unified school district from Wiseburn Elementary School District and the corresponding portion of Centinela Valley Union High School District was filed on or about November 9, 2001, with the Los Angeles County Superintendent of Schools pursuant to California *Education Code* Section 35700(a); and

WHEREAS, the California State Board of Education, pursuant to California *Education Code* Section 35753, may approve a proposal to form a new unified school district if said Board finds that the proposal meets the provisions of California *Education Code* Section 35753; and

WHEREAS, the California State Board of Education finds that the proposal to form a new unified school district from Wiseburn Elementary School District and the corresponding portion of Centinela Valley Union High School District meets the provisions of California *Education Code* Section 35753; therefore be it

RESOLVED, that under the authority of California *Education Code* Section 35754, the California State Board of Education approves the proposal to form a new unified school district from Wiseburn Elementary School District and the corresponding portion of Centinela Valley Union High School District; and be it

RESOLVED further, that all assets and liabilities of the Centinela Valley Union High School District shall be divided based on the proportionate average daily attendance of the high school students residing in the areas of the two districts on June 30 of the school year immediately preceding the date on which the proposed unification becomes effective for all purposes; and be it

RESOLVED further, that the new unified school district formed from the territory of the current Wiseburn Elementary School District shall pay the Centinela Valley Union High School District a proportionate share, determined pursuant to *EC* Section 35576(b)(1), of the outstanding bonded indebtedness of the Centinela Valley Union High School



District that exists as of the date of the election for the proposal to form a new unified school district; and be it

RESOLVED further, that the base revenue limit per unit of average daily attendance for the new unified school district is \$7,337 based on 2011–12 fiscal year data and shall be recalculated using second prior fiscal year data from the time the new district becomes effective for all purposes, including any adjustments for which the new district may be eligible; and be it

RESOLVED further, that the California State Board of Education directs the Los Angeles County Superintendent of Schools to call for the election in the territory of the Wiseburn Elementary School District pursuant to Chapter 730, Statutes of 2011–12 (Senate Bill 477); and be it

RESOLVED further, that the Secretary of the California State Board of Education shall give notice of the actions of said Board to the Los Angeles County Superintendent of Schools, the chief petitioners, the Wiseburn Elementary School District, and the Centinela Valley Union High School District.



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 16**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### **SUBJECT**

##### **PUBLIC COMMENT.**

Public Comment is invited on any matter **not** included on the printed agenda. Depending on the number of individuals wishing to address the State Board, the presiding officer may establish specific time limits on presentations.

☐ **Action**

☒ **Information**

☐ **Public Hearing**

#### **SUMMARY OF THE ISSUE(S)**

This is a standing item on the agenda, which allows the members of the public to address the board on any matter that is not included in this meeting's agenda.

#### **RECOMMENDATION**

Listen to public comment on matters not included on the agenda.

#### **BRIEF HISTORY OF KEY ISSUES**

Not applicable.

#### **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

Not applicable.

#### **FISCAL ANALYSIS (AS APPROPRIATE)**

Not applicable.

#### **ATTACHMENT(S)**

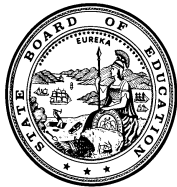
Not applicable.



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 17**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### SUBJECT

Update of Special Education Regulations—Approve  
Commencement of the Rulemaking Process for Amendments to  
the California Code of Regulations, Title 5, Sections 3001–3088.

- ☒ Action
- ☒ Information
- ☐ Public Hearing

#### SUMMARY OF THE ISSUE(S)

Many of the regulations that govern the special education program in California have not been updated since the State Board of Education (SBE) adopted substantive amendments in December 1987. Since those regulations became operative on April 20, 1988, there have been numerous changes to state statutes and federal statutes and regulations. The attached amendments to *California Code of Regulations*, Title 5 (5 CCR), sections 3001–3088 are being proposed to update these regulations by bringing them into alignment with existing state statutes and federal requirements.

#### RECOMMENDATION

The California Department of Education (CDE) recommends that the SBE take the following actions:

- Approve the Notice of Proposed Rulemaking (Attachment 1)
- Approve the Text of Proposed Regulations (Attachment 2)
- Approve the Initial Statement of Reasons (Attachment 3)
- Direct the CDE to commence the rulemaking process

#### BRIEF HISTORY OF KEY ISSUES

The regulations implementing special education and related services to children ages birth to 22 in California have not been substantially updated since 1987. In the past 25 years, state statutes and federal statutes and regulations have continued to change and the federal Individuals with Disabilities Education Act (IDEA) has been reauthorized twice.

In 2010, the Special Education Division (SED) began an internal process for reviewing and updating 5 CCR, sections 3001–3088. The SED internal review process involved division management and staff at all levels in a series of meetings and comment periods that resulted in technical and substantive proposed amendments to the regulations.

In August 2012, pursuant to Title 1, CCR, Section 100, the CDE SED, sought from the Office of Administrative Law (OAL) approval for proposed technical, nonsubstantive amendments to the regulations under review. In September 2012, the OAL approved technical, nonsubstantive amendments to the following 5 CCR sections: 3000, 3010, 3021, 3021.1, 3022, 3023, 3024, 3025, 3027, 3028, 3042, 3051.4, 3051.75, 3051.8, 3051.9, 3051.12, 3051.13, 3051.17, 3051.18, 3052, 3053, 3062, 3063, 3064, 3067, 3069, 3080, 3082, 3083, 3084, 3085, 3086, 3087, 3088, 3088.1, 3088.2, 3089, 3090, 3091, 3092, 3093, 3094, 3096, 3096.1, 3096.2, 3097, 3098, 3098.1, 3098.2, 3099, and 3100. These regulatory sections were updated in the California Code of Regulations, Title 5, and the amendments were posted to the CDE Web site at <http://www.cde.ca.gov/sp/se/ac/>.

On October 15, 2012, the SED solicited—by e-mail through the division’s established mailing lists—assistance and advice from hundreds of education stakeholders regarding which sections of the existing regulations they thought should be maintained, amended, deleted, or added. Stakeholder groups that the SED contacted included members of the Advisory Commission on Special Education (ACSE), Assembly Bill 114 Transition Workgroup, the Association of California School Administrators, the California Association of Resource Specialists PLUS, Community Advisory Committee members, the Family Empowerment and Disability Council, members of the Improving Special Education Services group, representatives of Institutes of Higher Education, Nonpublic School/Agency Administrators, directors of Special Education Local Plan Areas (SELPA), Special Education Administrators of County Offices, members of the California Teachers Association board, and WorkAbility administrators. In addition, SED staff asked SELPA directors to forward the request for assistance and advice to district special education directors.

To facilitate these stakeholders in providing the SED with their comments, an electronic assistance and advice form (Attachment 4) was sent to them along with instructions for using the form. The form had a field that allowed stakeholders to indicate for each regulation whether the regulation should be maintained, amended, deleted, or added. The form also allowed respondents to enter proposed amendments of up to 400 characters, and it provided a field in which respondents could offer a rationale for each comment, also of up to 400 characters. The SED received responses from ten persons, and these responses were compiled into one document, which was provided to ACSE.

Pursuant to California *Education Code* Section 33595, the ACSE is mandated to “Comment publicly on any rules or regulations proposed by the state regarding the education of individuals with exceptional needs.” During the ACSE’s January 2013 meeting, and in preparation for the ACSE’s March 2013 meeting, SED staff provided the commissioners with an information package that contained the draft amendments to the regulations, the draft initial statement of reasons, a compilation of public comments received so far, and information about the rulemaking process.

A second informal public comment period was also conducted from December 28, 2012, through February 15, 2013. The SED staff, in partnership with the ACSE, once again contacted the education stakeholders noted above and asked them to provide the ACSE with comments on the proposed amended regulations. This round of comments was provided to all of the commissioners on February 21, 2013, in anticipation of the ACSE's March 2013 meeting.

On March 6, 2013, the ACSE deliberated on the proposed amendments to 5 CCR sections 3001–3088 and provided the SED with its comments, many of which have been incorporated into the regulatory package. The ACSE approved a motion that the CDE should forward the attached regulations to the SBE for approval to commence the formal rulemaking process. Any further ACSE deliberation will be reflected during the 45-day comment period.

#### **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

N/A

#### **FISCAL ANALYSIS (AS APPROPRIATE)**

A Fiscal Impact Statement is provided as Attachment 5.

#### **ATTACHMENT(S)**

Attachment 1: Notice of Proposed Rulemaking (5 pages)

Attachment 2: Text of Proposed Regulations (45 pages)

Attachment 3: Initial Statement of Reasons (20 pages)

Attachment 4: Assistance and Advice form (4 pages) (This attachment is not available for Web viewing. A printed copy is available for viewing in the State Board of Education office.)

Attachment 5: Economic and Fiscal Impact Statement (STD. 399) (TBD pages). The Economic and Fiscal Impact Statement is available for viewing at the State Board of Education office.



CALIFORNIA DEPARTMENT OF EDUCATION

**TOM TORLAKSON**, State Superintendent of Public Instruction  
916-319-0800

CALIFORNIA STATE BOARD OF EDUCATION

**MICHAEL W. KIRST**, President  
916-319-0827

**NOTICE OF PROPOSED RULEMAKING  
AMENDMENT TO CALIFORNIA CODE OF REGULATIONS, TITLE 5, REGARDING  
THE SPECIAL EDUCATION REGULATIONS**

Notice published May 24, 2013

**NOTICE IS HEREBY GIVEN** that the State Board of Education (SBE) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

***PUBLIC HEARING***

California Department of Education (CDE) staff, on behalf of the SBE, will hold a public hearing at 9:00 a.m. on July 8, 2013 at 1430 N Street, Room 1801, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SBE requests, but does not require, that persons who make oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

***WRITTEN COMMENT PERIOD***

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Debra Thacker, Regulations Coordinator  
Administrative Support and Regulations Adoption Unit  
California Department of Education  
1430 N Street, Room 5319  
Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at 916-319-0155 or by e-mail to [regcomments@cde.ca.gov](mailto:regcomments@cde.ca.gov).



Comments must be received by the Regulations Coordinator prior to 5:00 p.m. on July 8, 2013. All written comments received by CDE staff during the public comment period are subject to disclosure under the Public Records Act.

### ***AVAILABILITY OF CHANGED OR MODIFIED TEXT***

Following the public hearing and considering all timely and relevant comments received, the SBE may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposed regulations.

### ***AUTHORITY AND REFERENCE***

Authority: Sections 33031, 56100, 56366.1, Education Code; 20 U.S.C. Section 1414; 34 C.F.R. Section 300.600.

References: Sections 2530, 2570.2, 2620, 2903, 2905, 4980.02, 4989.14 and 4996.9, Business and Professions Code; Sections 33300, 37600, 41976.5, 45340, 45350, 49001, 49423.5, 56001, 56026, 56320, 56324, 56326, 56327, 56333, 56337, 56341, 56345, 56363, 56363.3, 56364, 56365, 56366, 56366.1, 56366.2, 56366.6, 56366.10, 56381, 56425, 56426, 56426.1, 56430, 56500, 56501, 56502, 56503, 56504, 56505, 56506, 56507, and 56520, Education Code; Sections 95014, 11425.10, 11430.10-11430.30, 11430.50, 11430.60, 11440.20, 11455.10, 11455.20 and 11455.30, Government Code; 20 U.S.C Sections 1401, 1414, and 1415; 34 C.F.R Sections 300.25, 300.4-300.45, 300.8, 300.12, 300.18, 300.34, 300.106, 300.156, 300.300, 300.301, 300.304, 300.305, 300.306, 300.307, 300.308, 300.309, 300.310, 300.311, 300.320, 300.342-300.345, 300.507, 300.508, 300.509, 300.510, 300.511, 300.512, 300.550-554, and 303.21.

### ***INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW***

California Code of Regulations, title 5, sections 3001-3088, pertain to the administration of special education instruction and related services for students with individualized education programs (IEPs). These regulations implement California Education Code, Part 30.

Many of the regulatory sections noted above have not been updated since the State Board of Education (SBE) adopted substantive changes on December 11, 1987, which became operative on April 20, 1988. Since then state and federal statutes and

regulations have changed many times in response to legislative activities in California, including two reauthorizations by Congress of the federal Individuals with Disabilities Education Act (IDEA) in the United States Code, and consequent amendments to federal regulations as promulgated in title 34, Code of Federal Regulations, Part 300.

The purpose of introducing this rulemaking process is to update state regulations by bringing them into alignment with existing state statutes and federal statutes and regulations. Updating these regulations will help to ensure the consistent application of existing laws throughout California's educational entities for all students with IEPs; to standardize guidance for monitoring purposes for compliance with state and federal requirements; and to facilitate the appropriateness of administrative and judicial decisions predicated on California law.

The CDE reviewed all state regulations relating to the provision of special education and related services to students with IEPs and found that none exist that are inconsistent or incompatible with these regulations regarding the same matters.

#### ***DISCLOSURES REGARDING THE PROPOSED ACTION/ FISCAL IMPACT***

*The SBE has made the following initial determinations:*

There are no other matters as are prescribed by statute applicable to the specific state agency or to any specific regulations or class of regulations.

The proposed regulations do not require a report to be made.

Mandate on local agencies and school districts: TBD

Cost or savings to any state agency: TBD

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: TBD

Other non-discretionary costs or savings imposed on local educational agencies: TBD

Costs or savings in federal funding to the state: TBD

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: TBD

Cost impacts on a representative private person or businesses: The SBE is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on housing costs: TBD

Effect on small businesses: The proposed regulations would not have an effect on any small business because the proposed amendments only bring these sections into alignment with existing state statutes and federal statutes and regulations.

### ***RESULTS OF THE ECONOMIC IMPACT ANALYSIS***

Adoption of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Updating these regulations will help to ensure the consistent application of existing laws throughout California's educational entities for all students with IEPs; to standardize guidance for monitoring purposes for compliance with state and federal requirements; and to facilitate the appropriateness of administrative and judicial decisions predicated on California law.

### ***CONSIDERATION OF ALTERNATIVES***

The SBE has determined that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SBE, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The SBE invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

### ***CONTACT PERSONS***

Inquiries concerning the content of this regulation should be directed to:

Allison Smith, Consultant  
Special Education Division  
California Department of Education  
1430 N Street, 2401

Sacramento, CA 95814  
Telephone: 916-319-0377  
[ASmith@cde.ca.gov](mailto:ASmith@cde.ca.gov)

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or Cynthia Olsen, Analyst, at 916-319-0860.

### ***INITIAL STATEMENT OF REASONS AND INFORMATION***

The SBE has prepared an Initial Statement of Reasons for the proposed regulation and has available all the information upon which the proposal is based.

### ***TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS***

Copies of the exact language of the proposed regulation, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the CDE's Web site at <http://www.cde.ca.gov/re/lr/rr/>.

### ***AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE***

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Regulations Coordinator.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to the Regulations Coordinator.

### ***REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY***

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Allison Smith, Special Education Division, 1430 N Street, 2401, Sacramento, CA, 95814; telephone, 916-319-0377; fax, 916-327-3706. It is recommended that assistance be requested at least two weeks prior to the hearing.

- The State Board of Education has illustrated changes to the original text in the following manner: text originally proposed to be added is underlined; text proposed to be deleted is displayed in ~~strikeout~~.

## **TITLE 5. EDUCATION**

### **DIVISION 1. CALIFORNIA DEPARTMENT OF EDUCATION**

#### **CHAPTER 3. INDIVIDUALS WITH EXCEPTIONAL NEEDS**

##### **SUBCHAPTER 1. SPECIAL EDUCATION**

##### **ARTICLE 1. GENERAL PROVISIONS**

##### **§ 3001. Definitions.**

In addition to those found in Education Code sections 56020 - ~~56033~~ 56035, ~~Public Law 94-142 as amended~~ (20 U.S.C. Sections 1401(1) to (35) ~~et seq.~~), and 34 C.F.R. Title 34, Code of Federal Regulations, Part Sections 300.4 - 300.45 and ~~301~~, the following definitions are provided:

(a) "Access" means that the nonpublic, nonsectarian school shall provide State Board of Education (SBE)-adopted, standards-aligned core curriculum and instructional materials for kindergarten and grades 1 to 8 (K-8), inclusive; and provide standards-aligned core curriculum and instructional materials for grades 9 to 12 (9-12), inclusive, used by a local educational agency (LEA) that contracts with the nonpublic school.

...

(d) "Behavioral emergency" is the demonstration of a serious behavior problem:

(1) which has not previously been observed and for which a behavioral intervention plan has not been developed; or

(2) for which a previously designed behavioral intervention is not effective. Approved behavioral emergency procedures must be outlined in the special education local planning area (SELPA) local plan.

...

(f) "Behavioral intervention case manager" means a designated certificated school/district/county/nonpublic school or agency staff member(s) or other qualified personnel pursuant to subdivision ~~(ae)~~ (v) contracted by the school district or county office or nonpublic school or agency who has been trained in behavior analysis with an emphasis on positive behavioral interventions. The "behavioral intervention case

manager" is not intended to be a new staffing requirement and does not create any new credentialing or degree requirements. The duties of the "behavioral intervention case manager" may be performed by any existing staff member trained in behavioral analysis with an emphasis on positive behavioral interventions, including, but not limited to, a teacher, resource specialist, school psychologist, or program specialist.

(g) "Behavioral intervention plan" is a written document which is developed when the individual exhibits a serious behavior problem that significantly interferes with the implementation of the goals and where applicable, benchmarks or short-term objectives of the individual's IEP. The "behavioral intervention plan" shall become part of the IEP. The plan shall describe the frequency of the consultation to be provided by the behavioral intervention case manager to the staff members and parents who are responsible for implementing the plan. A copy of the plan shall be provided to the person or agency responsible for implementation in noneducational settings. The plan shall include the following:

. . .

~~(h) "Board" means the California State Board of Education.~~

~~(h)(i)~~ (i) "CDE" means the California Department of Education.

~~(i)(j)~~ (j) "Certification" means authorization by the California State Superintendent of Public Instruction (SSPI) for a nonpublic school or nonpublic agency to service individuals with exceptional needs under a contract pursuant to the provisions of Education Code section 56366(d).

~~(j)(k)~~ (k) "Contracting education agency," means school district, a SELPA, a charter school participating as a member of a ~~special education local plan area~~ SELPA, or county office of education.

~~(k)(l)~~ (l) "Credential" means any valid credential, life diploma, or document in special education or pupil personnel services issued by, or under the jurisdiction of, the California ~~SBE State Board of Education~~ prior to 1970 or the California Commission on Teacher Credentialing, which entitles the holder thereof to perform services for which certification qualifications are required.

~~(l)(m)~~ (m) "Department of Consumer Affairs" means the California Department of Consumer Affairs.

1 ~~(m)(n)~~ "Dual enrollment" means the concurrent attendance of the individual in a  
2 public education agency and a nonpublic school and/or a nonpublic agency.

3 ~~(o) "Feasible" as used in Education Code section 56363(a) means the IEP team:~~  
4 ~~(1) has determined the regular class teacher, special class teacher, and/or resource~~  
5 ~~specialist possesses the necessary competencies and credentials/certificates to provide~~  
6 ~~the designated instruction and service specified in the IEP, and~~

7 ~~(2) has considered the time and activities required to prepare for and provide the~~  
8 ~~designated instruction and services and related services by the regular class teacher,~~  
9 ~~special class teacher, and/or resource specialist.~~

10 ~~(p) "Free appropriate public education" means special education and related~~  
11 ~~services that:~~

12 ~~(1) have been provided at public expense, under public supervision and direction~~  
13 ~~and without charge;~~

14 ~~(2) meets any of the standards established by state or federal law;~~

15 ~~(3) include an appropriate preschool, elementary, or secondary school education in~~  
16 ~~California; and~~

17 ~~(4) are provided in conformity with the IEP required under state and federal law.~~

18 ~~(n)(q)~~ "Individual Services Agreement" means a document, prepared by the LEA,  
19 that specifies the length of time for which special education and designated instruction  
20 and services and related services are to be provided, by nonpublic schools and/or  
21 nonpublic agencies, to individuals with exceptional needs.

22 ~~(o)(r)~~ "Instructional day" shall be the same period of time as constitutes the regular  
23 school day for that chronological peer group unless otherwise specified in the IEP.

24 ~~(p)(s)~~ "License" means a valid nonexpired document issued by a licensing agency  
25 within the California Department of Consumer Affairs or other state licensing office  
26 authorized to grant licenses and authorizing the bearer of the document to provide  
27 certain professional services or refer to themselves using a specified professional title. If  
28 a license is not available through an appropriate state licensing agency, a certificate of  
29 registration with the appropriate professional organization at the national or state level,  
30 which has standards established for the certificate that are equivalent to a license, shall  
31 be deemed to be a license.

1        ~~(g)(t)~~ "Linguistically appropriate goals, objectives, and programs" means:

2        . . .

3        ~~(u) "Local educational agency" (LEA) means a school district, a county office of~~  
4 ~~education, a charter school participating as a member of a special education local plan~~  
5 ~~area, or a special education local plan area.~~

6        ~~(r)(v)~~ "Local governing board," means either district or county board of education.

7        ~~(s)(w)~~ "Master contract" means the legal document that binds the public education  
8 agency and the nonpublic school or nonpublic agency.

9        ~~(t)(x)~~ "Nonsectarian" means a private, nonpublic school or agency that is not owned,  
10 operated, controlled by, or formally affiliated with a religious group or sect, whatever  
11 might be the actual character of the education program or the primary purpose of the  
12 facility and whose articles of incorporation and/or by-laws stipulate that the assets of  
13 such agency or corporation will not inure to the benefit of a religious group.

14        ~~(u)(y)~~ "Primary language" means the language other than English, or other mode of  
15 communication, the person first learned, or the language which is ~~spoken~~ used in the  
16 person's home.

17        ~~(v)(z)~~ "Qualified" means that a person has met federal and state certification,  
18 licensing, registration, or other comparable requirements which apply to the area in  
19 which he or she is providing special education or related services, or, in the absence of  
20 such requirements, the state-education-agency-approved or recognized requirements,  
21 and adheres to the standards of professional practice established in federal and state  
22 law or regulation, including the standards contained in the California Business and  
23 Professions Code. Nothing in this definition shall be construed as restricting the  
24 activities ~~in~~ or services of a graduate needing direct hours leading to licensure, or of a  
25 student teacher or intern leading to a graduate degree at an accredited or approved  
26 college or university, as authorized by state laws or regulations.

27        ~~(aa) "Related services" means transportation, and such developmental, corrective,~~  
28 ~~and other supportive services (including speech pathology and audiology, psychological~~  
29 ~~services, physical and occupational therapy, recreation, including therapeutic~~  
30 ~~recreation, social work services, counseling services, including rehabilitation counseling,~~  
31 ~~and medical services, except that such medical services shall be for diagnostic and~~



1 ~~evaluation purposes only) as required to assist an individual with exceptional needs to~~  
2 ~~benefit from special education, and includes the early identification and assessment of~~  
3 ~~disabling conditions in children. Related services include, but are not limited to,~~  
4 ~~designated instruction and services. The list of related services is not exhaustive and~~  
5 ~~may include other developmental, corrective, or supportive services if they are required~~  
6 ~~to assist a child with a disability to benefit from special education. Each related service~~  
7 ~~defined under this part may include appropriate administrative and supervisory activities~~  
8 ~~that are necessary for program planning, management, and evaluation.~~

9 (w)~~(ab)~~ "Serious behavior problems" means the individual's behaviors which are self-  
10 injurious, assaultive, or cause serious property damage and other severe behavior  
11 problems that are pervasive and maladaptive for which instructional/behavioral  
12 approaches specified in the student's IEP are found to be ineffective.

13 (ac)~~(ae)~~ "Special education" means specially designed instruction, at no cost to the  
14 parents, to meet the unique needs of individuals with exceptional needs whose  
15 educational needs cannot be met with modification of the regular instruction program,  
16 and related services, at no cost to the parent, that may be needed to assist these  
17 individuals to benefit from specially designed instruction.

18 (x)~~(ad)~~ "Specialized physical health care services" means those health services,  
19 including catheterization, gastric tube feeding, suctioning or other services prescribed  
20 by the individual's licensed physician and surgeon requiring medically related training  
21 for the individual who performs the services and which are necessary during the school  
22 day to enable the individual to attend school.

23 (y)~~(ae)~~ "Specified education placement" means that unique combination of facilities,  
24 personnel, location or equipment necessary to provide instructional services to an  
25 individual with exceptional needs, as specified in the IEP, in any one or a combination of  
26 public, private, home and hospital, or residential settings. The IEP team shall document  
27 its rationale for placement in other than the pupil's school and classroom in which the  
28 pupil would otherwise attend if the pupil were not disabled. The documentation shall  
29 indicate why the pupil's disability prevents his or her needs from being met in a less  
30 restrictive environment even with the use of supplementary aids and services.

31 (z)~~(af)~~ "SSPI" means the California State Superintendent of Public Instruction.

1       ~~(aa)(ag)~~ "Temporary physical disability" means a disability incurred while an  
2 individual was in a regular education class and which at the termination of the  
3 temporary physical disability, the individual can, without special intervention, reasonably  
4 be expected to return to his or her regular education class.

5 NOTE: Authority cited: Sections 56100 and ~~56523~~, Education Code. Reference:  
6 Sections ~~33000, 33126, 33300, 49423.5, and 56026, 56026.3, 56034, 56320, 56361,~~  
7 ~~56366, 56366.10, 56520 and 56523~~, Education Code; ~~Section 2, Article IX, Constitution~~  
8 ~~of the State of California; 20 U.S.C. Section 1401; and 34 C.F.R. Sections 300.4 -~~  
9 300.45 and 300.320.

### 11                   **ARTICLE 3. IDENTIFICATION, REFERRAL AND ASSESSMENT**

#### 12       **§ 3023. Assessment and Reassessment.**

13       (a) In addition to provisions of Education Code ~~S~~sections 56320 and 56381,  
14 assessments and reassessments shall be administered by qualified personnel who are  
15 competent in both the oral or sign language skills and written skills of the individual's  
16 primary language or mode of communication and have a knowledge and understanding  
17 of the cultural and ethnic background of the pupil. If it clearly is not feasible to do so, an  
18 interpreter must be used, and the assessment report shall document this condition and  
19 note that the validity of the assessment may have been affected.

20       (b) The normal process of second-language acquisition, as well as manifestations of  
21 dialect and sociolinguistic variance shall not be diagnosed as a ~~handicapping~~ disabling  
22 condition.

23 NOTE: Authority cited: Section 56100~~(a), (i) and (j)~~, Education Code. Reference:  
24 Sections 56001, 56320, 56324, ~~and 56327, and 56381~~, Education Code; and 34 C.F.R.  
25 Sections 300.304, 300.305 and 300.310 ~~300.530, 300.532 and 300.543.~~

#### 27       **§ 3025. Assessment Option: Referral to State Schools for Further Assessment.**

28       (a) Prior to referring a pupil for further assessment to California Schools for the Deaf  
29 or Blind or the Diagnostic Centers ~~Schools~~, districts, ~~special education local plan areas~~  
30 SELPAs, counties, or other agencies providing education services, shall first conduct  
31 assessments at the local level within the capabilities of that agency. Results of local

assessments shall be provided to parent(s) and shall state the reasons for referral to the State School. Results of local assessments shall accompany the referral request.

(b) The Schools for the Deaf and Blind and the Diagnostic ~~Centers~~ Schools shall conduct assessments pursuant to the provisions of Education Code section 56320 et seq.

(c) A representative of the district, ~~special education local plan areas~~ SELPAs, or county ~~individualized education program~~ IEP team shall participate in the staffing meeting and shall receive the final report and recommendations. Conference calls are acceptable forms of participation, provided that written reports and recommendations have been received by the representative prior to the meeting.

NOTE: Authority cited: Section 56100(a), Education Code. Reference: Section 56326, Education Code.

#### **§ 3029. Contracting for Individually Administered Tests of Psychological Functioning Due to the Unavailability of School Psychologists.**

(a) School districts, county offices, and ~~special education local plan areas~~ SELPAs shall ensure that credentialed school psychologists are available to perform individually administered tests of intellectual or emotional functioning pursuant to Education Code ~~Section 56320(b)(3) of the Education Code~~.

(b) Due to the temporary unavailability of a credentialed school psychologist, a school district or county office may contract with qualified personnel to perform individually administered tests of intellectual or emotional functioning including necessary reports pursuant to Education Code ~~Section 56327 of the Education Code~~.

(c) The district or county office shall seek appropriately credentialed school psychologists for employment. These efforts, which include, but are not limited to, contacting institutions of higher education having approved school psychology programs and utilizing established personnel recruitment practices, shall be documented and available for review.

~~(d) The only persons qualified to provide assessment services under this section shall be educational psychologists licensed by the Board of Behavioral Science Examiners.~~

NOTE: Authority cited: Sections 56100(a) and 56320(f), Education Code. Reference:  
Sections 56320(b) and 56327, Education Code.

### ARTICLE 3.1. INDIVIDUALS WITH EXCEPTIONAL NEEDS

#### § 3030. Eligibility Criteria.

(a) A ~~pupil~~ child shall qualify as an individual with exceptional needs, pursuant to Education Code ~~Section 56026 of the Education Code~~, if the results of the assessment as required by Education Code ~~Section 56320~~ demonstrate that the degree of the ~~pupil's~~ child's impairment as described in ~~Section 3030 subdivisions (a)(b)(1) through (b)(13)(f)~~ requires special education in one or more of the program options authorized by Education Code ~~Section 56361 of the Education Code~~. The decision as to the whether or not the assessment results demonstrate that the degree of the ~~pupil's~~ child's impairment requires special education shall be made by the ~~individualized education program~~ IEP team, including personnel in accordance with Education Code ~~Section 56341(d)(b) of the Education Code~~. The ~~individualized education program~~ IEP team shall take into account all the relevant material which is available on the ~~pupil~~ child. No single score or product of scores shall be used as the sole criterion for the decision of the ~~individualized education program~~ IEP team as to the ~~pupil's~~ child's eligibility for special education. ~~The specific processes and procedures for implementation of these criteria shall be developed by each Special Education Local Plan Area and be included in the local plan pursuant to Section 56220(a) of the Education Code.~~

~~(a) A pupil has a hearing impairment, whether permanent or fluctuating, which impairs the processing of linguistic information through hearing, even with amplification, and which adversely affects educational performance. Processing linguistic information includes speech and language reception and speech and language discrimination.~~

~~(b) A pupil has concomitant hearing and visual impairments, the combination of which causes severe communication, developmental, and educational problems.~~

(b) The disability terms used in defining an individual with exceptional needs are as follows:

(1) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three,

1 and adversely affecting a child's educational performance. Other characteristics often  
2 associated with autism are engagement in repetitive activities and stereotyped  
3 movements, resistance to environmental change or change in daily routines, and  
4 unusual responses to sensory experiences.

5 (A) Autism does not apply if a child's educational performance is adversely affected  
6 primarily because the child has an emotional disturbance, as defined in subdivision  
7 (b)(4) of this section.

8 (B) A child who manifests the characteristics of autism after age three could be  
9 identified as having autism if the criteria in subdivision (b)(1) of this section are satisfied.

10 (2) Deaf-blindness means concomitant hearing and visual impairments, the  
11 combination of which causes such severe communication and other developmental and  
12 educational needs that they cannot be accommodated in special education programs  
13 solely for children with deafness or children with blindness.

14 (3) Deafness means a hearing impairment that is so severe that the child is impaired  
15 in processing linguistic information through hearing, with or without amplification that  
16 adversely affects a child's educational performance.

17 (4) Emotional disturbance means a condition exhibiting one or more of the following  
18 characteristics over a long period of time and to a marked degree that adversely affects  
19 a child's educational performance:

20 (A) An inability to learn that cannot be explained by intellectual, sensory, or health  
21 factors.

22 (B) An inability to build or maintain satisfactory interpersonal relationships with peers  
23 and teachers.

24 (C) Inappropriate types of behavior or feelings under normal circumstances.

25 (D) A general pervasive mood of unhappiness or depression.

26 (E) A tendency to develop physical symptoms or fears associated with personal or  
27 school problems.

28 (F) Emotional disturbance includes schizophrenia. The term does not apply to  
29 children who are socially maladjusted, unless it is determined that they have an  
30 emotional disturbance under subdivision (b)(4) of this section.

31 (5) Hearing impairment means an impairment in hearing, whether permanent or

1 fluctuating, that adversely affects a child's educational performance but that is not  
2 included under the definition of deafness in this section.

3 (6) Intellectual disability means significantly subaverage general intellectual  
4 functioning, existing concurrently with deficits in adaptive behavior and manifested  
5 during the developmental period that adversely affects a child's educational  
6 performance.

7 (7) Multiple disabilities means concomitant impairments, such as intellectual  
8 disability-blindness or intellectual disability-orthopedic impairment, the combination of  
9 which causes such severe educational needs that they cannot be accommodated in  
10 special education programs solely for one of the impairments. Multiple disabilities does  
11 not include deaf-blindness.

12 (8) Orthopedic impairment means a severe orthopedic impairment that adversely  
13 affects a child's educational performance. The term includes impairments caused by a  
14 congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone  
15 tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations,  
16 and fractures or burns that cause contractures).

17 (9) Other health impairment means having limited strength, vitality, or alertness,  
18 including a heightened alertness to environmental stimuli, that results in limited  
19 alertness with respect to the educational environment that:

20 (A) Is due to chronic or acute health problems such as asthma, attention deficit  
21 disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition,  
22 hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and  
23 Tourette syndrome; and

24 (B) Adversely affects a child's educational performance.

25 (10) Specific learning disability means a disorder in one or more of the basic  
26 psychological processes involved in understanding or in using language, spoken or  
27 written, that may have manifested itself in the imperfect ability to listen, think, speak,  
28 read, write, spell, or do mathematical calculations, including conditions such as  
29 perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and  
30 developmental aphasia. The basic psychological processes include attention, visual  
31 processing, auditory processing, sensory-motor skills, cognitive abilities including

1 association, conceptualization and expression.

2 (A) Specific learning disabilities do not include learning problems that are primarily  
3 the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional  
4 disturbance, or of environmental, cultural, or economic disadvantage.

5 (B) In determining whether a pupil has a specific learning disability, the public  
6 agency may consider whether a pupil has a severe discrepancy between intellectual  
7 ability and achievement in oral expression, listening comprehension, written expression,  
8 basic reading skill, reading comprehension, mathematical calculation, or mathematical  
9 reasoning. The decision as to whether or not a severe discrepancy exists shall take into  
10 account all relevant material which is available on the pupil. No single score or product  
11 of scores, test or procedure shall be used as the sole criterion for the decisions of the  
12 IEP team as to the pupil's eligibility for special education. In determining the existence of  
13 a severe discrepancy, the IEP team shall use the following procedures:

14 1. When standardized tests are considered to be valid for a specific pupil, a severe  
15 discrepancy is demonstrated by: first, converting into common standard scores, using a  
16 mean of 100 and standard deviation of 15, the achievement test score and the  
17 intellectual ability test score to be compared; second, computing the difference between  
18 these common standard scores; and third, comparing this computed difference to the  
19 standard criterion which is the product of 1.5 multiplied by the standard deviation of the  
20 distribution of computed differences of students taking these achievement and ability  
21 tests. A computed difference which equals or exceeds this standard criterion, adjusted  
22 by one standard error of measurement, the adjustment not to exceed 4 common  
23 standard score points, indicates a severe discrepancy when such discrepancy is  
24 corroborated by other assessment data which may include other tests, scales,  
25 instruments, observations and work samples, as appropriate.

26 2. When standardized tests are considered to be invalid for a specific pupil, the  
27 discrepancy shall be measured by alternative means as specified on the assessment  
28 plan.

29 3. If the standardized tests do not reveal a severe discrepancy as defined in  
30 subdivisions 1. or 2. above, the IEP team may find that a severe discrepancy does exist,  
31 provided that the team documents in a written report that the severe discrepancy

between ability and achievement exists as a result of a disorder in one or more of the basic psychological processes. The report shall include a statement of the area, the degree, and the basis and method used in determining the discrepancy. The report shall contain information considered by the team which shall include, but not be limited to:

(i) Data obtained from standardized assessment instruments;

(ii) Information provided by the parent;

(iii) Information provided by the pupil's present teacher;

(iv) Evidence of the pupil's performance in the regular and/or special education classroom obtained from observations, work samples, and group test scores;

(v) Consideration of the pupil's age, particularly for young children; and

(vi) Any additional relevant information.

4. A severe discrepancy shall not be primarily the result of limited school experience or poor school attendance.

(C) Whether or not a pupil exhibits a severe discrepancy as described in subdivision (b)(10)(B) above, a pupil may be determined to have a specific learning disability if:

1. The pupil does not achieve adequately for the pupil's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the pupil's age or State-approved grade-level standards:

(i) Oral expression.

(ii) Listening comprehension.

(iii) Written expression.

(iv) Basic reading skill.

(v) Reading fluency skills.

(vi) Reading comprehension.

(vii) Mathematics calculation.

(viii) Mathematics problem solving, and

2.(i) The pupil does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in subdivision (b)(10)(C)(1) of this section when using a process based on the pupil's response to scientific, research-based intervention; or



1 (ii) The pupil exhibits a pattern of strengths and weaknesses in performance,  
2 achievement, or both, relative to age, State-approved grade-level standards, or  
3 intellectual development, that is determined by the group to be relevant to the  
4 identification of a specific learning disability, using appropriate assessments, consistent  
5 with 34 C.F.R. sections 300.304 and 300.305; and

6 3. The findings under subdivisions (b)(10)(C)(1) and (2) of this section are not  
7 primarily the result of:

8 (i) A visual, hearing, or motor disability;

9 (ii) Intellectual disability;

10 (iii) Emotional disturbance;

11 (iv) Cultural factors;

12 (v) Environmental or economic disadvantage; or

13 (vi) Limited English proficiency.

14 4. To ensure that underachievement in a pupil suspected of having a specific  
15 learning disability is not due to lack of appropriate instruction in reading or math, the  
16 group making the decision must consider:

17 (i) Data that demonstrate that prior to, or as a part of, the referral process, the pupil  
18 was provided appropriate instruction in regular education settings, delivered by qualified  
19 personnel; and

20 (ii) Data-based documentation of repeated assessments of achievement at  
21 reasonable intervals, reflecting formal assessment of student progress during  
22 instruction, which was provided to the pupil's parents.

23 5. In determining whether a pupil has a specific learning disability, the public agency  
24 must ensure that the pupil is observed in the pupil's learning environment in accordance  
25 with 34 C.F.R. section 300.310, and the eligibility determination must be documented in  
26 accordance with 34 C.F.R. section 300.311.

27 (11)(e) A pupil has a language or speech disorder as defined in Education Code  
28 §section 56333 of the ~~Education Code~~, and it is determined that the pupil's disorder  
29 meets one or more of the following criteria:

30 (A)(1) Articulation disorder.

31 1.(A) The pupil displays reduced intelligibility or an inability to use the speech

mechanism which significantly interferes with communication and attracts adverse attention. Significant interference in communication occurs when the pupil's production of single or multiple speech sounds on a developmental scale of articulation competency is below that expected for his or her chronological age or developmental level, and which adversely affects educational performance.

2.(B) A pupil does not meet the criteria for an articulation disorder if the sole assessed disability is an abnormal swallowing pattern.

(B)(2) Abnormal Voice. A pupil has an abnormal voice which is characterized by persistent, defective voice quality, pitch, or loudness.

(C)(3) Fluency Disorders. A pupil has a fluency disorder when the flow of verbal expression including rate and rhythm adversely affects communication between the pupil and listener.

(D)(4) Language Disorder. The pupil has an expressive or receptive language disorder when he or she meets one of the following criteria:

1.(A) The pupil scores at least 1.5 standard deviations below the mean, or below the 7th percentile, for his or her chronological age or developmental level on two or more standardized tests in one or more of the following areas of language development: morphology, syntax, semantics, or pragmatics. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified on the assessment plan, or

2.(B) The pupil scores at least 1.5 standard deviations below the mean or the score is below the 7th percentile for his or her chronological age or developmental level on one or more standardized tests in one of the areas listed in subsection (A) and displays inappropriate or inadequate usage of expressive or receptive language as measured by a representative spontaneous or elicited language sample of a minimum of fifty utterances. The language sample must be recorded or transcribed and analyzed, and the results included in the assessment report. If the pupil is unable to produce this sample, the language, speech, and hearing specialist shall document why a fifty utterance sample was not obtainable and the contexts in which attempts were made to elicit the sample. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative

means as specified in the assessment plan.

(12) Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech.

(A) Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

(13) Visual impairment including blindness means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

~~(d) A pupil has a visual impairment which, even with correction, adversely affects a pupil's educational performance.~~

~~(e) A pupil has a severe orthopedic impairment which adversely affects the pupil's educational performance. Such orthopedic impairments include impairments caused by congenital anomaly, impairments caused by disease, and impairments from other causes.~~

~~(f) A pupil has limited strength, vitality or alertness, due to chronic or acute health problems, including but not limited to a heart condition, cancer, leukemia, rheumatic fever, chronic kidney disease, cystic fibrosis, severe asthma, epilepsy, lead poisoning, diabetes, tuberculosis and other communicable infectious diseases, and hematological disorders such as sickle cell anemia and hemophilia which adversely affects a pupil's educational performance. In accordance with Section 5626(e) of the Education Code, such physical disabilities shall not be temporary in nature as defined by Section 3001(v).~~

~~(g) A pupil exhibits any combination of the following autistic-like behaviors, to include but not limited to:~~

~~(1) An inability to use oral language for appropriate communication.~~

~~(2) A history of extreme withdrawal or relating to people inappropriately and~~

1 continued impairment in social interaction from infancy through early childhood.

2 ~~(3) An obsession to maintain sameness.~~

3 ~~(4) Extreme preoccupation with objects or inappropriate use of objects or both.~~

4 ~~(5) Extreme resistance to controls.~~

5 ~~(6) Displays peculiar motoric mannerisms and motility patterns.~~

6 ~~(7) Self-stimulating, ritualistic behavior.~~

7 ~~(h) A pupil has significantly below average general intellectual functioning existing~~  
8 ~~concurrently with deficits in adaptive behavior and manifested during the developmental~~  
9 ~~period, which adversely affect a pupil's educational performance.~~

10 ~~(i) Because of a serious emotional disturbance, a pupil exhibits one or more of the~~  
11 ~~following characteristics over a long period of time and to a marked degree, which~~  
12 ~~adversely affect educational performance:~~

13 ~~(1) An inability to learn which cannot be explained by intellectual, sensory, or health~~  
14 ~~factors.~~

15 ~~(2) An inability to build or maintain satisfactory interpersonal relationships with peers~~  
16 ~~and teachers.~~

17 ~~(3) Inappropriate types of behavior or feelings under normal circumstances exhibited~~  
18 ~~in several situations.~~

19 ~~(4) A general pervasive mood of unhappiness or depression.~~

20 ~~(5) A tendency to develop physical symptoms or fears associated with personal or~~  
21 ~~school problems.~~

22 ~~(j) A pupil has a disorder in one or more of the basic psychological processes~~  
23 ~~involved in understanding or in using language, spoken or written, which may manifest~~  
24 ~~itself in an impaired ability to listen, think, speak, read, write, spell, or do mathematical~~  
25 ~~calculations, and has a severe discrepancy between intellectual ability and achievement~~  
26 ~~in one or more of the academic areas specified in Section 56337(a) of the Education~~  
27 ~~Code. For the purpose Section 3030(j)~~

28 ~~(1) Basic psychological processes include attention, visual processing, auditory~~  
29 ~~processing, sensory motor skills, cognitive abilities including association,~~  
30 ~~conceptualization and expression.~~

31 ~~(2) Intellectual ability includes both acquired learning and learning potential and shall~~

1 ~~be determined by a systematic assessment of intellectual functioning.~~

2 ~~(3) The level of achievement includes the pupil's level of competence in materials~~  
3 ~~and subject matter explicitly taught in school and shall be measured by standardized~~  
4 ~~achievement tests.~~

5 ~~(4) The decision as to whether or not a severe discrepancy exists shall be made by~~  
6 ~~the individualized education program team, including assessment personnel in~~  
7 ~~accordance with Section 56341(d), which takes into account all relevant material which~~  
8 ~~is available on the pupil. No single score or product of scores, test or procedure shall be~~  
9 ~~used as the sole criterion for the decisions of the individualized education program team~~  
10 ~~as to the pupil's eligibility for special education. In determining the existence of a severe~~  
11 ~~discrepancy, the individualized education program team shall use the following~~  
12 ~~procedures:~~

13 ~~(A) When standardized tests are considered to be valid for a specific pupil, a severe~~  
14 ~~discrepancy is demonstrated by: first, converting into common standard scores, using a~~  
15 ~~mean of 100 and standard deviation of 15, the achievement test score and the ability~~  
16 ~~test score to be compared; second, computing the difference between these common~~  
17 ~~standard scores; and third, comparing this computed difference to the standard criterion~~  
18 ~~which is the product of 1.5 multiplied by the standard deviation of the distribution of~~  
19 ~~computed differences of students taking these achievement and ability tests. A~~  
20 ~~computed difference which equals or exceeds this standard criterion, adjusted by one~~  
21 ~~standard error of measurement, the adjustment not to exceed 4 common standard~~  
22 ~~score points, indicates a severe discrepancy when such discrepancy is corroborated by~~  
23 ~~other assessment data which may include other tests, scales, instruments, observations~~  
24 ~~and work samples, as appropriate.~~

25 ~~(B) When standardized tests are considered to be invalid for a specific pupil, the~~  
26 ~~discrepancy shall be measured by alternative means as specified on the assessment~~  
27 ~~plan.~~

28 ~~(C) If the standardized tests do not reveal a severe discrepancy as defined in~~  
29 ~~subparagraphs (A) or (B) above, the individualized education program team may find~~  
30 ~~that a severe discrepancy does exist, provided that the team documents in a written~~  
31 ~~report that the severe discrepancy between ability and achievement exists as a result of~~

~~a disorder in one or more of the basic psychological processes. The report shall include a statement of the area, the degree, and the basis and method used in determining the discrepancy. The report shall contain information considered by the team which shall include, but not be limited to:~~

~~1. Data obtained from standardized assessment instruments;~~

~~2. Information provided by the parent;~~

~~3. Information provided by the pupil's present teacher;~~

~~4. Evidence of the pupil's performance in the regular and/or special education classroom obtained from observations, work samples, and group test scores;~~

~~5. Consideration of the pupil's age, particularly for young children; and~~

~~6. Any additional relevant information.~~

~~(5) The discrepancy shall not be primarily the result of limited school experience or peer school attendance.~~

NOTE: Authority cited: ~~Statutes of 1981, Chapter 1094, Section 25(a); and Section 56100(a), (g) and (i), Education Code. Reference: Sections 56026, 56320, 56333 and 56337, Education Code; 20 U.S.C. Sections 1401(a)(15)(3) and 1412(5) 1414(a) and (b); 34 C.F.R. Sections 300.5(b)(7) and (9), 300.532(a)(2), (d) and (e), 300.533, 300.540, 300.541-43 300.8, 300.300, 300.301, 300.304, 300.305, 300.306, 300.307, 300.308, 300.309 and 300.311;~~ and sections 56026, 56320, 56333 and 56337, Education Code.

**§ 3031. Additional Eligibility Criteria for Individuals with Exceptional Needs - Age Birth to Four Younger Than Three Years and Nine Months.**

(a) A child, age birth to four younger than three years and nine months, shall qualify as an individual with exceptional needs pursuant to Education Code Section 56026(c)(1) and (2) and Government Code section 95014 if the Individualized Education Program Family Service Plan (IFSP) ~~T~~eam determines that the child meets the following criteria:

(1) Is identified as an individual with exceptional needs pursuant to Section 3030, and

(2) Is identified as requiring intensive special education and services by meeting one of the following:

(A) The child is functioning at or below 50 percent % of his or her chronological age level in any one of the following skill areas:

1. gross or fine motor development;
2. receptive or expressive language development;
3. social, ~~or~~ emotional or adaptive development;
4. cognitive development; and
5. visual and hearing development.

(B) The child is functioning ~~between 51% and 75% of his or her chronological age level in any two of the skill areas with~~ at least a 33 percent delay in two or more developmental areas identified in ~~S~~section 3031(2)(A).

(C) The child has a disabling medical condition or congenital syndrome which the ~~Individualized Education Program IFSP T~~team determines has a high predictability of requiring intensive special education and services.

(b) Programs for individuals with exceptional needs younger than three years of age are permissive in accordance with Education Code Ssection 56001(c) ~~of the Education Code~~ except for those programs mandated pursuant to Education Code Ssection 56425 ~~of the Education Code~~.

NOTE: Authority cited: ~~Statutes of 1981, Chapter 1094, Section 25(a); and Section 56100(a), (g) and (i), Education Code. Reference: Sections 56001 and 56026, Education Code; Section 95014, Government Code; 20 U.S.C. Section 1401(a)(15)(3)(B), 20 U.S.C. Section 1432(a)(5); 34 C.F.R. Sections 300.5 303.21, 300.25; Statutes of 1981, Chapter 1094, Section 25(a); and Sections 56026; 56030.5, 56333, and 56337, Education Code.~~

#### **ARTICLE 4. INSTRUCTIONAL PLANNING AND INDIVIDUALIZED EDUCATION PROGRAM**

##### **§ 3040. Individualized Education Program Implementation. [Repealed]**

~~(a) Upon completion of the individualized education program, that individualized education program shall be implemented as soon as possible following the individualized education program team meeting.~~

(b) ~~A copy of the individualized education program shall be provided to the parents at no cost, and a copy of the individualized education program shall be provided in the primary language at the request of the parent.~~

(c) ~~The individualized education program shall show a direct relationship between the present levels of performance, the goals and objectives, and the specific educational services to be provided.~~

NOTE: Authority cited: Section 56100(a), (i) and (j), Education Code. Reference: Section 56341, Education Code; and 34 C.F.R. Sections 300.342 - 300.345.

### **§ 3043. Extended School Year.**

Extended school year services shall be provided, in accordance with 34 C.F.R. section 300.106, for each individual with exceptional needs who has unique needs and requires special education and related services in excess of the regular academic year. Such individuals shall have ~~handicaps~~ disabilities which are likely to continue indefinitely or for a prolonged period, and interruption of the pupil's educational programming may cause regression, when coupled with limited recoupment capacity, rendering it impossible or unlikely that the pupil will attain the level of self-sufficiency and independence that would otherwise be expected in view of his or her ~~handicapping~~ disabling condition. The lack of clear evidence of such factors may not be used to deny an individual an extended school year program if the ~~individualized education program~~ IEP team determines the need for such a program and includes extended school year in the ~~individualized education program~~ IEP pursuant to subdivision ~~subsection~~ (f).

(a) Extended year special education and related services shall be provided by a school district, SELPA ~~special education local plan area~~, or county office offering programs during the regular academic year.

(b) Individuals with exceptional needs who may require an extended school year are those who:

(1) Are placed in special classes ~~or centers~~; or

(2) Are individuals with exceptional needs whose IEPs ~~individualized education programs~~ specify an extended year program as determined by the ~~Individualized Education Program~~ IEP ~~T~~team.



1 . . .

2 (d) An extended year program shall be provided for a minimum of 20 instructional  
3 days, including holidays. For reimbursement purposes:

4 (1) A maximum of 55 instructional days excluding holidays shall be allowed for  
5 individuals in special classes ~~or centers for~~ pupils with severe disabilities ~~the severely~~  
6 ~~handicapped~~; and

7 (2) A maximum of 30 instructional days excluding holidays shall be allowed for all  
8 other eligible pupils needing extended year.

9 (e) A local governing board may increase the number of instructional days during the  
10 extended year period, but shall not claim revenue for average daily attendance  
11 generated beyond the maximum instructional days allowed in subdivisions ~~subsection~~  
12 (d)(1) and (2).

13 (f) An extended year program, when needed, as determined by the IEP  
14 ~~Individualized Education Program~~ team, shall be included in the pupil's IEP  
15 ~~individualized education program~~.

16 (g) In order to qualify for average daily attendance revenue for extended year pupils,  
17 all of the following conditions must be met:

18 (1) Extended year special education shall be the same length of time as the school  
19 day for pupils of the same age level attending summer school in the district in which the  
20 extended year program is provided, but not less than the minimum school day for that  
21 age unless otherwise specified in the IEP ~~individualized education program~~ to meet a  
22 pupil's unique needs.

23 (2) The special education and related services offered during the extended year  
24 period are comparable in standards, scope and quality to the special education program  
25 offered during the regular academic year.

26 (h) If during the regular academic year an individual's IEP ~~individualized education~~  
27 ~~program~~ specifies integration in the regular classroom, a public education agency is not  
28 required to meet that component of the IEP ~~individualized education program~~ if no  
29 regular summer school programs are being offered by that agency.

30 . . .

31 NOTE: Authority cited: Section 56100(a) and (j), Education Code. Reference: Sections

37600, 41976.5 and 56345, Education Code; and 34 C.F.R. Section 300.346 300.106.

## **ARTICLE 5. IMPLEMENTATION (PROGRAM COMPONENTS)**

### **§ 3051. Standards for ~~Designated Instruction and Services (DIS)~~ and Related Services.**

(a) General Provisions.

(1) ~~Designated instruction and services and r~~Related services may be provided to individuals or to small groups in a specialized area of educational need, and throughout the full continuum of educational settings.

(2) ~~Designated instruction and services and r~~Related services, when needed are determined by the IEP.

~~(3) All entities and individuals providing designated instruction and services and related services shall be qualified pursuant to sections 3060-3065 of this title.~~

~~(3)(4)~~ All entities and individuals providing ~~designated instruction and services and~~ related services shall meet the qualifications found in 34 C.F.R. section 300.156(b) and shall be either:

(A) Employees of the school district or county office, or

(B) Employed under contract pursuant to Education Code sections 56365-56366, or

(C) Employees, vendors or contractors of the State Departments of Health Care Services or State Hospitals Mental Health, or any designated local public health or mental health agency.

NOTE: Authority cited: Sections 33031, 56100 and 56366.1, Education Code.

Reference: Sections 56363, 56365 and 56366, Education Code; and 34 C.F.R. Sections 300.12, 300.34 and 300.156(b).

#### **§ 3051.1. Language, Speech and Hearing Development and Remediation.**

~~(a) An individual holding an appropriate credential with specialization in language, speech and hearing may provide services~~ Language, Speech and Hearing Development and Remediation services ~~which~~ include:

(1) Referral and assessment of individuals suspected of having a disorder of language, speech, or hearing. Such individuals are not considered as part of the

caseload pursuant to Education Code ~~Section 56363.3 of the Education Code~~ unless an IEP ~~individualized education program~~ is developed and services are provided pursuant to ~~Sections~~ 3051.1(a)(2) and (3).

(2) Specialized instruction and services for individuals with disorders of language, speech, and hearing, including monitoring of pupil progress on a regular basis, providing information for the review, and when necessary participating in the review and revision of ~~individualized educational programs~~ IEPs of pupils.

...

(b) Caseloads of full-time equivalent language, speech and hearing specialists providing instruction and services within the district, SELPA ~~special education local plan area~~, or county office shall not exceed a district-wide, ~~special education local plan area~~ SELPA-wide, or county-wide average of ~~fifty-five (55)~~ individuals unless prior written approval has been granted by the SSPI ~~State Superintendent of Public Instruction~~.

(c) Services may be provided by an ~~aide~~ aide working under the direct supervision of a ~~credentialed~~ qualified language, speech, and hearing specialist if specified in the IEP ~~individualized education program~~. No more than two aides may be supervised by one ~~credentialed~~ qualified language, speech, and hearing specialist. The case loads of persons in ~~subsection~~ subdivision (b) shall not be increased by the use of aides ~~noncertificated personnel~~.

(d) Individuals providing language, speech and hearing development and remediation services shall be qualified.

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Sections 56363(b)(1) and 56363.3, and Education Code; and 34 C.F.R. Sections 300.13(b)(12) 300.34 and 300.156(b)(1).

## **§ 3051.2. Audiological Services.**

(a) In addition to provisions of Title 34, ~~Code of Federal Regulations~~, C.F.R. Section ~~300.13(b)(1)~~ 300.34, designated audiological instruction and services may include:

...

(3) Planning, organizing, and implementing an audiology program for individuals with auditory dysfunctions, as specified in the IEP ~~individualized education program~~.

...

(b) ~~The person~~ Individuals providing audiological services shall ~~hold a valid~~  
~~credential with a specialization in clinical or rehabilitative services in audiology~~ be  
qualified.

NOTE: Authority cited: Section 56100(a) and (i), Education Code; ~~20 U.S.C. 1414(c) (2)~~  
~~(B); and 34 C.F.R. 300.600~~. Reference: Section 56363(b)(2), Education Code; and 34  
C.F.R. ~~300.13(b)(1)~~ Sections 300.34 and 300.156(b)(1).

### **§ 3051.3. Orientation and Mobility Instruction.**

(a) Orientation and Mobility instruction may include:

(1) Specialized instruction for individuals in orientation and mobility techniques.

(2) Consultative services to other educators and parents regarding instructional  
planning and implementation of the IEP ~~individualized education program~~ relative to the  
development of orientation and mobility skills and independent living skills.

(b) ~~The person~~ Individuals providing orientation and mobility instruction and services  
shall ~~hold a credential as an orientation and mobility specialist~~ be qualified.

NOTE: Authority cited: Section 56100(a) and (i), Education Code; ~~20 U.S.C. 1414(c) (2)~~  
~~(B); and 34 C.F.R. 300.600~~. Reference: Section 56363, Education Code; and 34 C.F.R.  
Sections 300.34 and 300.156(b)(1).

### **§ 3051.4. Instruction in the Home or Hospital.**

...

(e) Instruction in the home or hospital shall be provided by a regular class teacher,  
the special class teacher or the resource specialist teacher, if the teacher or specialist is  
competent to provide such instruction and services and if the provision of such  
instruction and services by the teacher or specialist is feasible. If not, the appropriate  
~~designated instruction and~~ related services specialist shall provide such instruction.

...

NOTE: Authority cited: Section 56100, Education Code. Reference: Sections 56001 and  
56363, Education Code.

**§ 3051.5. Adapted Physical Education for Individuals with Exceptional Needs.**

...

(b) ~~The person~~ Individuals providing instruction and services adapted physical education shall have ~~a credential authorizing the teaching of adapted physical education as established by the Commission on Teacher Credentialing~~ be qualified.

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: ~~34 CFR 300.307~~ Section 56363, Education Code.

**§ 3051.6. Physical and Occupational Therapy.**

(a) When the district, ~~special education local plan area~~ SELPA, or county office contracts for the services of a physical therapist or an occupational therapist, the following standards shall apply:

(1) Occupational or physical therapists shall provide services based upon recommendation of the ~~individual education program~~ IEP team. Physical therapy and occupational therapy services for infants are limited by Education Code section 56426.6. Physical therapy services may not exceed the services specified in the Business and Professions Code at ~~§section 2620~~. Occupational therapy services may not exceed the services specified in the Business and Professions Code section 2570.2(k).

(2) The district, ~~special education local plan area~~ SELPA, or county office shall assure that the therapist has available safe and appropriate equipment.

(b) ~~Qualifications of therapists.~~ Individuals providing physical or occupational therapy shall be qualified:

~~(1) The therapists shall have graduated from an accredited school.~~

~~(2) A physical therapist shall be currently licensed by the Board of Medical Quality Assurance of the State of California and meet the educational standards of the Physical Therapy Examining Committee.~~

~~(3) An occupational therapist shall be currently registered with the American Occupational Therapy Association.~~

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Section 56363(b)(6), Education Code; and ~~34 C.F.R. 300.13(b) (5) and (7) and 300.600~~

Sections 300.34 and 300.156(b)(1).

**§ 3051.7. Vision Services.**

(a) Vision services ~~shall be provided by a Credentialed teacher of the visually handicapped and~~ may include:

...

(b) An assessment of and provision for services to visually impaired pupils may be conducted by an eye specialist who has training and expertise in low vision disabilities and has available the appropriate low vision aids for the purpose of assessment. The eye specialist may provide consultation to the pupil, parents, teacher and other school personnel as may be requested by ~~individualized education program~~ an IEP team.

...

(e) Individuals providing vision services shall be qualified.

NOTE: Authority cited: Section 56100~~(a) and (i)~~, Education Code. Reference: Sections 44265.5 and 56363~~(b)(7)~~, Education Code.

**§ 3051.75. Vision Therapy.**

...

NOTE: Authority cited: Sections 56100, Education Code; 20 U.S.C. Section 1414(c)(2)(B); and 34 C.F.R. Section 300.600. Reference: Section 56363, Education Code.

**§ 3051.10. Psychological Services Other Than Assessment and Development of the ~~Individualized Education Program~~ IEP.**

Psychological services may include:

~~(a) Counseling provided to an individual with exceptional needs by a credentialed or licensed psychologist or other qualified personnel.~~

~~(a)(b)~~ Consultative services to parents, pupils, teachers, and other school personnel.

~~(b)(c)~~ Planning and implementing a program of psychological counseling for individuals with exceptional needs and parents.

(c) Individuals providing psychological services shall be qualified.

NOTE: Authority cited: Section 56100(a) and (i), Education Code; ~~20 U.S.C. 1414(c) (2) (B); and 34 C.F.R. 300.600.~~ Reference: Section 56363(b)(10), Education Code; and 34 C.F.R. ~~300.13 (b) (8)~~ Sections 300.34 and 300.156(b)(1).

**§ 3051.11. Parent Counseling and Training.**

Parent counseling and training may include:

...

(c) Individuals providing parent counseling and training shall be qualified.

NOTE: Authority cited: ~~Education Code Section 56100(a) and (i); 20 U.S.C. 1414(c) (2) (B); and 34 C.F.R. 300.600,~~ Education Code. Reference: Section 56363(b)(11), Education Code; and 34 C.F.R. ~~300.13(b)(6)~~ Sections 300.34 and 300.156(b)(1).

**§ 3051.14. Specially Designed Vocational Education and Career Development.**

...

(h) Coordinating services with the Department of Rehabilitation and other agencies as designated in the ~~individualized education program~~ IEP.

(i) Individuals providing specially designed vocational education and career development shall be qualified.

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Section 56363(b)(14), Education Code; 34 C.F.R. ~~300.14(b)(3)~~ Sections 300.34 and 300.156(b)(1).

**§ 3051.15. Recreation Services.**

...

(d) Individuals providing recreation services shall be qualified.

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Section 56363(b)(15), Education Code; and 34 C.F.R. 300.13(b)(9) Sections 300.34 and 300.156(b)(1).

**§ 3051.16. Specialized Services for Low-Incidence Disabilities.**

(a) Specialized ~~S~~services for low-incidence disabilities may include:

...

(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.

(1) ~~By July 1, 2008, an educational interpreter shall be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent; in lieu of RID certification or equivalent, an educational interpreter shall have achieved a score of 3.0 or above on the Educational Interpreter Performance Assessment (EIPA), the Educational Sign Skills Evaluation-Interpreter and Receptive (ESSE-I/R), or the National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment. If providing Cued Language transliteration, a transliterator shall possess Testing/Evaluation and Certification Unit (TECUnit) certification, or have achieved a score of 3.0 or above on the EIPA - Cued Speech.~~

(2) ~~By July 1, 2008, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 3.5 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment. If providing Cued Language transliteration, a transliterator shall possess TECUnit certification, or have achieved a score of 3.5 or above on the EIPA - Cued Speech.~~

~~(b)(3)~~ By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the Educational Interpreter Performance Assessment (EIPA), the Educational Sign Skills Evaluation-Interpreter and Receptive (ESSE-I/R), or the National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment. If providing Cued Language transliteration, a transliterator shall possess Testing/Evaluation and Certification Unit (TECUnit) certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.

(c) An "educational interpreter" provides communication facilitation between students who are deaf or hard of hearing, and others, in the general education classroom and for other school related activities, including extracurricular activities, as designated in a student's Individualized Educational Program (IEP).

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Section



56363, Education Code; and 34 C.F.R. Sections 300.34 and 300.156(b) (1), ~~Title 34,~~  
~~Code of Federal Regulations.~~

**§ 3051.18. DESIGNATED INSTRUCTION AND RELATED SERVICES FOR THE  
DEAF AND HARD OF HEARING.**

...

NOTE: Authority cited: Section 56100, Education Code. Reference: Section 56363,  
Education Code; and 34 C.F.R. Sections 300.34 and 300.156(b)(1).

**§ 3054. Special Center. [Repealed]**

~~(a) Standards. Special centers operating under this section shall:~~

~~(1) Provide pupils in a special center with an educational program in accordance  
with their individualized education programs for at least the same length of time as the  
regular school day for that chronological peer group:~~

~~(A) When an individual can benefit by attending a regular class(es) or other program  
part of the day, the amount of time shall be written in the individualized education  
program.~~

~~(B) When the individualized education program team determines that an individual  
cannot function for the period of time of a regular school day, and when it is so specified  
in the individualized education program, an individual may be permitted to attend a  
special center for less time than the regular school day for that chronological peer  
group.~~

~~(2) Be staffed by qualified personnel at a pupil/adult ratio to enable implementation  
of the pupils' individualized education programs.~~

~~(3) Provide an emergency communication system for the health and safety of  
individuals with exceptional needs, such as fire, earthquake, and smog alerts.~~

~~(4) Have specialized equipment and facilities to meet the needs of individuals served  
in the special centers.~~

~~(b) Special centers should be located to promote maximum, appropriate interaction  
with regular educational programs.~~

NOTE: Authority cited: Section 56100(a) and (i), Education Code; 20 U.S.C. Section

1 1414(c)(2)(B); and 34 C.F.R. Section 300.600. References: Sections 56001 and 56364,  
2 Education Code; and 34 C.F.R. Sections 300.550 - 554.

3  
4 **ARTICLE 6. NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES**  
5 **§ 3060. Application for Certification.**

6 . . .

7 (c) Each nonpublic school or nonpublic agency application shall include all  
8 information required by the CDE's application pursuant to Education Code sections  
9 56366.1(a) and (b) and:

- 10 (1) the name and address of the nonpublic school or nonpublic agency;
- 11 (2) the name of the administrator and contact person;
- 12 (3) the telephone and FAX number and e-mail address;
- 13 (4) for nonpublic schools, the name of the teacher(s) with a credential authorizing  
14 service in special education;
- 15 (5) the types of disabling conditions served;
- 16 (6) the age, gender and grade levels served;
- 17 (7) the total student capacity of the program;
- 18 (8) a brief description of the program including entrance criteria and exit criteria for  
19 transition back to the public school setting, and specific services designed to address  
20 student needs as listed on the student's IEP;
- 21 (9) for nonpublic schools, SBE-adopted core-curriculum (K-8) and standards-aligned  
22 core-curriculum (9-12) and instructional materials used by general education students;
- 23 (10) per hour, per day or monthly fees for services provided;
- 24 (11) written directions and a street map describing the location of the nonpublic  
25 school from the major freeways, roads, streets, thoroughfares and closest major airport;
- 26 (12) annual operating budget, including projected costs and revenues for each  
27 agency and school program, providing documentation that demonstrates that the rates  
28 to be charged are reasonable to support the operation of the agency or school  
29 program;
- 30 (13) an entity-wide audit in accordance with generally accepted accounting and  
31 auditing principles including each entity's costs and revenues by individual cost center;

(14) A list of all qualified staff, including subcontractors identifying their assignment and qualifications in providing services to pupils;

(15) tuberculosis clearance dates for all staff;

(16) criminal record summary or criminal history clearance dates for all staff, including subcontractors, who have contact with pupils;

(17) a list of contracting LEAs for whom the applicant has a contract to provide school and/or related services;

(18) for out-of-state applicants, a copy of the current certification or license by the state education agency to provide education services to individuals with exceptional needs under the Individuals with Disabilities Education Act;

(19) a copy of the current school year calendar weekly class schedule, and daily schedule with number of instructional minutes by each grade level served;

(20) a fire inspection clearance completed within the past 12 ~~twelve~~ months;

(21) For new or relocating nonpublic schools, the following documents shall be available for inspection during any onsite visit made by the CDE:

(A)~~(a)~~ a copy of a business license (if applicable);

(B)~~(b)~~ a written disaster and mass casualty plan of action;

(C)~~(c)~~ a building safety inspection clearance; and

(D)~~(d)~~ a health inspection clearance.

(22) For each nonpublic school with a residential component the application shall include:

(A) the name of the residential program attached to the nonpublic school;

(B) the proprietary status of the residential program;

(C) a list of all residential facilities affiliated with the nonpublic school;

(D) the total capacity of all the residential facilities affiliated with the nonpublic school;

(E) the rate of care classification level (California schools only) for each residential facility affiliated with the nonpublic school; and

(F) a copy of the current residential care license.

(d) The applicant shall submit a signed assurance statement that the nonpublic school will maintain compliance with the following:

- (1) Fair Employment Act;
- (2) Drug Free Workplace Act;
- (3) Section 504 of the Rehabilitation Act;
- (4) Individuals with Disabilities Education Act;
- (5) Civil Rights Act;
- (6) Nonsectarian status;
- (7) Prohibition of Corporal Punishment of Pupils under Education Code section 49001; use of Positive Behavior Interventions pursuant to Education Code section 49001 and California Code of Regulations, title 5, section 3052;

...

NOTE: Authority cited: Sections 33031, and 56100, ~~56366 and 56366.1~~, Education Code. Reference: Sections 49001, 56366.1, and 56366.10, and 56520, Education Code.

#### **§ 3061. Service Fees, Finance and Maintenance of Records.**

All certified nonpublic schools and nonpublic agencies shall:

(a) make available any books and records associated with the delivery of education ~~and designated instruction and services~~ and related services to individuals with exceptional needs for audit inspection or reproduction by the SSPI or the SSPI's authorized representatives. These records shall include those management records associated with the delivery of education and ~~designated instruction and services and~~ related services, and the costs of providing services and personnel records necessary to ensure that staff qualifications comply with the requirements contained in ~~a~~Article 6 of these regulations; and

...

NOTE: Authority cited: Sections 33031, and 56100 ~~and 56366~~, Education Code. Reference: Sections 56366.1 and 56366.10, Education Code; 20 U.S.C. Section 1401(26); and 34 C.F.R. Section 300.34.

#### **§ 3064. Staff Qualifications - Special Education Instruction.**

(a) In each classroom for which the nonpublic school is seeking certification, the

nonpublic school shall deliver instruction utilizing personnel who possess a credential authorizing the holder to deliver special education instruction according to the age range and disabling conditions of individuals with exceptional needs enrolled in the nonpublic school.

(1) During situations when instructional personnel leave the employ of the nonpublic school with little or no notice, the nonpublic school may employ a person who holds a Provisional Internship Permit or a Short Term Staff Permit ~~or a Temporary County Certificate for a period of time not to exceed the remainder of the school year.~~

...

NOTE: Authority cited: Sections 33031 and 56100, Education Code. Reference: Sections 45340, 45350, 56366.1 and 56425, Education Code.

### **§ 3065. Staff Qualifications - Related Services.**

To be eligible for certification to provide ~~designated instruction and~~ related services to individuals with exceptional needs, nonpublic schools and nonpublic agencies shall meet the following requirements:

~~(a)(1) "Adapted physical education" means:~~

~~(A) a modified general physical education program, or a specially designed physical education program in a special class; or~~

~~(B) consultative services provided to pupils, parents, teachers, or other school personnel for the purpose of identifying supplementary aids and services or modifications necessary for successful participation in the general physical education program or specially designed physical education programs.~~

(a)(2) Adapted physical education, as defined in section 3051.5, shall be provided only by personnel who possess a credential issued by the California Commission on Teacher Credentialing that authorizes service in adapted physical education.

(b)(1) "Assistive technology service" means any service that directly assists an individual with exceptional needs in the selection or use of an assistive technology device that is educationally necessary. The term includes the evaluation of the needs of an individual with exceptional needs including a functional evaluation of the individual in the individual's customary environment; coordinating and using other therapies,

1 interventions, or services with assistive technology devices, such as those associated  
2 with existing education programs and rehabilitation plans and programs; training or  
3 technical assistance for an individual with exceptional needs or, where appropriate, the  
4 family of an individual with exceptional needs or, if appropriate, that individual's family;  
5 and training or technical assistance for professionals (including individuals providing  
6 education and rehabilitation services), employers or other individuals who provide  
7 services to, employ, or are otherwise substantially involved in the major life functions of  
8 individuals with exceptional needs.

9 (2) Assistive technology services shall be provided only by personnel who possess  
10 a:

11 . . .

12 (G) a certificate in assistive technology applications issued by a regionally accredited  
13 post-secondary institution; or

14 (H) a credential that authorizes special education of physically impaired  
15 ~~handicapped~~, orthopedically impaired ~~handicapped~~, or severely impaired ~~handicapped~~  
16 pupils.

17 ~~(c)(1) "Audiological services" means aural rehabilitation (auditory training, speech~~  
18 ~~reading, language habilitation, and speech conservation) and habilitation with individual~~  
19 ~~pupils in the general classroom; monitoring hearing levels, auditory behavior, and~~  
20 ~~amplification for all pupils requiring personal or group amplification in the instructional~~  
21 ~~setting; planning, organizing, and implementing an audiology program for individuals~~  
22 ~~with auditory dysfunctions, as specified in the IEP; or consultative services regarding~~  
23 ~~test finding, amplification needs and equipment, otological referrals, home training~~  
24 ~~programs, acoustic treatment of rooms, and coordination of educational services to~~  
25 ~~hearing-impaired individuals.~~

26 ~~(c)(2)~~ Audiological services, as defined in section 3051.2, shall be provided only by  
27 personnel who possess:

28 ~~(1)(A)~~ a license in Audiology issued by a licensing agency within the Department of  
29 Consumer Affairs; or

30 ~~(2)(B)~~ a credential authorizing audiology services.

31 . . .

(e) To be eligible for certification to provide behavior intervention, including implementation of behavior ~~modification~~ intervention plans, but not including development or modification of behavior intervention plans, a nonpublic school or agency shall deliver those services utilizing personnel who:

. . .

~~(f)(1) "Counseling and guidance" means educational counseling in which the pupil is assisted in planning and implementing his or her immediate and long-range educational program; career counseling in which the pupil is assisted in assessing his or her aptitudes, abilities, and interests in order to make realistic career decisions; personal counseling in which the pupil is helped to develop his or her ability to function with social and personal responsibility; or counseling with parents and staff members on learning problems and guidance programs for pupils.~~

~~(f)(2)~~ Counseling and guidance, as defined in section 3051.9, shall be provided only by personnel who possess a:

~~(1)(A)~~ license as a Marriage and Family Therapist, or Marriage, and Family Intern under supervision of either a Marriage and Family Therapist, licensed Clinical Social Worker, licensed Psychologist, or a Physician who is certified in psychiatry by either the Medical Board of California, the Board of Behavioral Sciences, or the Board of Psychology, within the Department of Consumer Affairs; or

~~(2)(B)~~ license as a Clinical Social Worker, or Associate Clinical Social Worker under supervision of either a licensed Clinical Social Worker or a licensed Mental Health Professional by the Board of Behavioral Sciences, within the Department of Consumer Affairs; or

~~(3)(C)~~ license as an Educational Psychologist issued by a licensing agency within the Department of Consumer Affairs; or

~~(4)(D)~~ license in psychology, or who are working under supervision of a licensed psychologist, both regulated by the Board of Psychology, within the Department of Consumer Affairs; or

~~(5)(E)~~ pupil personnel services credential, which authorizes school counseling or school psychology.

~~(g)(1) "Early education programs for children with disabilities" means the program~~

1 ~~and services specified by Education Code, part 30, section 56425 et seq.~~

2 ~~(g)(2) Early education programs for children with disabilities, as defined in Education~~  
3 ~~Code section 56426, shall be provided only by personnel who meet the appropriate~~  
4 ~~personnel qualifications set forth in this article and comply with all other requirements of~~  
5 ~~Education Code, chapter 4.4 commencing with section 56425 56426.2.~~

6 (h) An "educational interpreter" provides communication facilitation between  
7 students who are deaf or hard of hearing, and others, in the general education  
8 classroom and for other school related activities, including extracurricular activities, as  
9 designated in a student's IEP.

10 ~~(1) Interpreters for deaf and hard of hearing pupils shall meet the following~~  
11 ~~qualification standards:~~

12 ~~(A) By July 1, 2008, an educational interpreter shall be certified by the national RID,~~  
13 ~~or equivalent; in lieu of RID certification or equivalent, an educational interpreter shall~~  
14 ~~have achieved a score of 3.0 or above on the EIPA, the ESSE I/R, or the NAD/ACCI~~  
15 ~~assessment. If providing Cued Language transliteration, a transliterator shall possess~~  
16 ~~TECUnit certification, or have achieved a score of 3.0 or above on the EIPA - Cued~~  
17 ~~Speech.~~

18 ~~(1)(B) By July 1, 2009, and thereafter, a~~An educational interpreter shall be certified  
19 by the national RID, or equivalent; in lieu of RID certification or equivalent, an  
20 educational interpreter shall have achieved a score of 4.0 or above on the EIPA, the  
21 ESSE-I/R, or the NAD/ACCI assessment. If providing Cued Language transliteration, a  
22 transliterator shall possess TECUnit certification, or have achieved a score of 4.0 or  
23 above on the EIPA - Cued Speech.

24 ~~(i)(1) "Health and nursing services" means:~~

25 ~~(A) managing the child's health problems on the school site;~~

26 ~~(B) consulting with pupils, parents, teachers, and other personnel;~~

27 ~~(C) group and individual counseling with parents and pupils regarding health~~  
28 ~~problems;~~

29 ~~(D) maintaining communication with health agencies providing care to individuals~~  
30 ~~with disabilities; or~~

31 ~~(E) providing services by qualified personnel.~~



1 (i)(2) Health and nursing services, as defined in section 3051.12, shall be provided  
2 only by personnel who possess:

3 (1)(A) a license as a Registered Nurse, issued by a licensing agency within the  
4 Department of Consumer Affairs; or

5 (2)(B) a license as a Vocational Nurse, issued by a licensing agency within the  
6 Department of Consumer Affairs, under the supervision of a licensed Registered Nurse;  
7 or

8 (3)(C) a school nurse credential; or

9 (4)(D) demonstrated competence in cardio-pulmonary resuscitation, current  
10 knowledge of community emergency medical resources, and skill in the use of  
11 equipment and performance of techniques necessary to provide specialized physical  
12 health care services for individuals with exceptional needs. In addition, possession of  
13 training in these procedures to a level of competence and safety that meets the  
14 objectives of the training as provided by the school nurse, public health nurse, licensed  
15 physician and surgeon, or other training programs. "Demonstrated competence in  
16 cardio-pulmonary resuscitation" means possession of a current valid certificate from an  
17 approved program; or

18 (5)(E) a valid license, certificate, or registration appropriate to the health service to  
19 be designated, issued by the California agency authorized by law to license, certificate,  
20 or register persons to practice health service in California.

21 ~~(j)(1) "Home and hospital services" means instruction delivered to children with~~  
22 ~~disabilities, individually, in small groups, or by teleclass, whose medical condition such~~  
23 ~~as those related to surgery, accidents, short term illness or medical treatment for a~~  
24 ~~chronic illness prevents the individual from attending school.~~

25 (j)(2) Home or hospital instruction, as defined in section 3051.4, shall be provided  
26 only by personnel who possess a credential issued by the California Commission on  
27 Teacher Credentialing authorizing the holder to deliver special education instruction  
28 according to age range and disabling condition of the individual(s).

29 ~~(k)(1) "Language and speech development and remediation" means screening,~~  
30 ~~assessment, IEP development and direct speech and language services delivered to~~  
31 ~~children with disabilities who demonstrate difficulty understanding or using spoken~~

1 ~~language to such an extent that it adversely affects their educational performance and~~  
2 ~~cannot be corrected without special education and related services.~~

3 ~~(k)(2)~~ Language and speech development and remediation, as defined in section  
4 3051.1, shall be provided only by personnel who possess:

5 ~~(1)(A)~~ a license in Speech-Language Pathology issued by a licensing agency within  
6 the Department of Consumer Affairs; or

7 ~~(2)(B)~~ a credential authorizing language or speech services.

8 (A) Services provided by a Speech-Language Pathology Assistant shall be  
9 supervised by a Speech-Language Pathologist as defined in Business and Professions  
10 Code section 2530.2(i).

11 ~~(l)(1) "Occupational therapy" means the use of various treatment modalities~~  
12 ~~including self-help skills, language and educational techniques as well as sensory motor~~  
13 ~~integration, physical restoration methods, and pre-vocation exploration to facilitate~~  
14 ~~physical and psychosocial growth and development.~~

15 (l) Music therapy shall be provided only by personnel who hold a Music Therapist –  
16 Board Certified credential from the Certification Board for Music Therapists (CBMT)  
17 upon the completion of all academic and clinical training requirements, and after  
18 successfully passing the CBMT National Board Certification Examination.

19 ~~(m)(2)~~ Occupational therapy, as defined in section 3051.6, shall be provided only by  
20 personnel who possess a license in occupational therapy issued by a licensing agency  
21 within the Department of Consumer Affairs. Services provided by a Certified  
22 Occupational Therapist Assistant (COTA) shall be supervised by a registered  
23 occupational therapist in accordance with professional standards outlined by the  
24 American Occupational Therapy Association.

25 ~~(m)(1) "Orientation and mobility instruction" means specialized instruction for~~  
26 ~~individuals in orientation and mobility techniques or consultative services to other~~  
27 ~~educators and parents regarding instructional planning and implementation of the IEP~~  
28 ~~relative to the development of orientation and mobility skills and independent living~~  
29 ~~skills.~~

30 ~~(n)(2)~~ Orientation and mobility instruction, as defined in section 3051.3, shall be  
31 provided only by personnel who possess a credential that authorizes services in

1 orientation and mobility instruction.

2 ~~(n)(1) "Parent counseling and training" means assisting parents in understanding the~~  
3 ~~special needs of their child and providing parents with information about child~~  
4 ~~development.~~

5 ~~(o)(2)~~ Parent counseling and training, as defined in section 3051.11, shall be  
6 provided only by personnel who possess a:

7 ~~(1)(A)~~ credential that authorizes special education instruction; or

8 ~~(2)(B)~~ credential that authorizes health and nursing services; or

9 ~~(3)(C)~~ license as a Marriage and Family Therapist, or Marriage, and Family Intern  
10 under supervision of either a Marriage and Family Therapist, licensed Clinical Social  
11 Worker, licensed Psychologist, or a Physician who is certified in psychiatry by either the  
12 Medical Board of California, the Board of Behavioral Sciences, or the Board of  
13 Psychology, within the Department of Consumer Affairs; or

14 ~~(4)(D)~~ license as a Clinical Social Worker, or Associate Clinical Social Worker under  
15 supervision of either a licensed Clinical Social Worker or a licensed Mental Health  
16 Professional by the Board of Behavioral Sciences, within the Department of Consumer  
17 Affairs; or

18 ~~(5)(E)~~ license as an Educational Psychologist, issued by a licensing agency within  
19 the Department of Consumer Affairs; or

20 ~~(6)(F)~~ license as a psychologist, or who are working under the supervision of a  
21 licensed psychologist, both regulated by the Board of Psychology, within the  
22 Department of Consumer Affairs; or

23 ~~(7)(G)~~ pupil personnel services credential that authorizes school counseling or  
24 school psychology or school social work.

25 ~~(o)(1) "Physical therapy" means the:~~

26 ~~(A) administration of active, passive, and resistive therapeutic exercises and local or~~  
27 ~~general massage, muscle training and corrective exercises and coordination work;~~

28 ~~(B) administration of hydrotherapy treatments;~~

29 ~~(C) assistance in administering various types of electrotherapy including ultraviolet,~~  
30 ~~infrared, diathermy and inductothermy;~~

31 ~~(D) teaching of parents of hospitalized pupils exercises which are to be continued at~~

1 ~~home and interpret to them the significance of physical therapy services; and~~

2 ~~(E) instruction in walking, standing, balance, use of crutches, cane, or walker and in~~  
3 ~~the care of braces and artificial limbs.~~

4 ~~(p)(2)~~ Physical therapy, as defined in section 3051.6, shall be provided only by  
5 personnel who possess a valid license in Physical Therapy issued by a licensing  
6 agency within the Department of Consumer Affairs.

7 ~~(q)(p)~~(1) "Psychological services" means:

8 . . .

9 ~~(q)(1)~~ "Recreation services" means:

10 ~~(A) therapeutic recreation and specialized instructional programs designed to assist~~  
11 ~~pupils to become as independent as possible in leisure activities, and when possible~~  
12 ~~and appropriate, facilitate the pupil's integration into general recreation programs;~~

13 ~~(B) recreation programs in schools and the community which are those programs~~  
14 ~~that emphasize the use of leisure activity in the teaching of academic, social, and daily~~  
15 ~~living skills and the provision of nonacademic and extracurricular leisure activities and~~  
16 ~~the utilization of community recreation programs and facilities; or~~

17 ~~(C) leisure education programs which are those specific programs designed to~~  
18 ~~prepare the pupil for optimum independent participation in appropriate leisure activities,~~  
19 ~~and developing awareness of personal and community leisure resources.~~

20 ~~(r)(2)~~ Recreation services, as defined in section 3051.15, shall be provided only by  
21 personnel who possess a:

22 ~~(1)(A)~~ certificate, issued by the California Board of Recreation and Park Certification;  
23 or

24 ~~(2)(B)~~ certificate issued by the National Council for Therapeutic Recreation; or

25 ~~(3)(C)~~ the National Recreation and Park Association, authorizing services in  
26 recreation or therapeutic recreation.

27 ~~(r)(1)~~ "Social worker services" means:

28 ~~(A) individual and group counseling with the individual and his or her immediate~~  
29 ~~family;~~

30 ~~(B) consultation with pupils, parents, teachers, and other personnel regarding the~~  
31 ~~effects of family and other social factors on the learning and developmental~~

requirements of children with disabilities; or

~~(C) developing a network of community resources, making appropriate referral and maintaining liaison relationships among the school, the pupil, the family, and the various agencies providing social income maintenance, employment development, mental health, or other developmental services.~~

~~(s)(2)~~ Social worker services, as defined in section 3051.13, shall be provided only by personnel who possess a:

~~(1)(A)~~ license as a Clinical Social Worker, or Associate Clinical Social Worker under supervision of either a licensed Clinical Social Worker or a licensed Mental Health Professional by the Board of Behavioral Sciences, within the Department of Consumer Affairs; or

~~(2)(B)~~ license as a Marriage and Family Therapist, or Marriage, and Family Intern under supervision of either a Marriage and Family Therapist, licensed Clinical Social Worker, licensed Psychologist, or a Physician who is certified in psychiatry by either the Medical Board of California, the Board of Behavioral Sciences, or the Board of Psychology, within the Department of Consumer Affairs; or

~~(3)(C)~~ credential authorizing school social work.

~~(s)(1) "Specialized driver training instruction" means instruction to children with disabilities to supplement the general driver training program.~~

~~(t)(2)~~ Specialized driver education and driver training instruction, as defined in section 3051.8, shall be provided only by personnel who possess a credential that authorizes service in driver education and driver training.

~~(t)(1) "Specially designed vocational education and career development" means:~~

~~(A) providing prevocational programs and assessing work-related skills, interests, aptitudes, and attitudes;~~

~~(B) coordinating and modifying the general vocational education program;~~

~~(C) assisting pupils in developing attitudes, self-confidence, and vocational competencies to locate, secure, and retain employment in the community or shelter environment, and to enable such individuals to become participating members of the community;~~

~~(D) establishing work training programs within the school and community;~~

1 ~~(E) assisting in job placement;~~

2 ~~(F) instructing job trainers and employers as to the unique needs of the individuals;~~

3 ~~(G) maintaining regularly scheduled contract with all work stations and job-site~~  
4 ~~trainers; or~~

5 ~~(H) coordinating services with the Department of Rehabilitation, the Employment~~  
6 ~~Development Department and other agencies as designated in the IEP.~~

7 ~~(u)(2)~~ Specially designed vocation education and career development, as defined in  
8 section 3051.14, shall be provided only by personnel who possess a:

9 ~~(1)(A)~~ adult education credential with a career development authorization; or

10 ~~(2)(B)~~ credential that authorizes instruction in special education or vocational  
11 education; or

12 ~~(3)(C)~~ pupil personnel services credential that authorizes school counseling.

13 ~~(u)(1) "Specialized services for low-incidence disabilities" means:~~

14 ~~(A) specially designed instruction related to the unique needs of pupils with low-~~  
15 ~~incidence disabilities; or~~

16 ~~(B) specialized services related to the unique needs of individuals with low-incidence~~  
17 ~~disabilities.~~

18 ~~(v)(2)~~ Specialized services for pupils with low-incidence disabilities, as defined in  
19 section 3051.16, shall be provided only by personnel who possess a credential that  
20 authorizes services in special education or clinical or rehabilitation services in the  
21 appropriate area of disability.

22 ~~(w)(v)~~ Transcribers for visually impaired pupils shall have a certificate issued by the  
23 Library of Congress as a Braille Transcriber.

24 ~~(w)(1) "Vision services" means:~~

25 ~~(A) adaptations in curriculum, media, and the environment, as well as instruction in~~  
26 ~~special skills; or~~

27 ~~(B) consultative services to pupils, parents, teachers, and other school personnel.~~

28 ~~(x)(2)~~ Vision services, as defined in section 3051.7, shall be provided only by  
29 personnel who possess:

30 ~~(1)(A)~~ a license as an Optometrist, Ophthalmologist, Physician or Surgeon, issued  
31 by a licensing agency within the Department of Consumer Affairs and authorizing the

licensee to provide the services rendered, or

~~(2)(B)~~ a valid credential authorizing vision instruction or services.

~~(y)(\*)~~ Other related services not identified in this section shall only be provided by staff who possess a:

...

NOTE: Authority cited: Sections 33031, and 56100 ~~and 56366~~, Education Code.

Reference: Sections 2530, 2570.2, 2620, 2903, 2905, 4980.02, 4989.14, and 4996.9 ~~and 47505.2~~, Business and Professions Code; Sections 49422, and 56363, 56366.1, 56426, 56426.1, and 56430, Education Code; 20 U.S.C. Section 1401; and 34 C.F.R. Sections 300.18, 300.34 and 300.156(b)(1).

## **§ 3068. Appeals and Waivers Information.**

...

~~(e) LEAs and nonpublic schools and agencies may request the SSPI to waive Education Code sections 56365, 56366, 56366.3 and 56366.6. Such petitions shall be made in accordance with the provisions of Education Code section 56366.2 and shall be necessary in order to provide services to individuals with exceptional needs consistent with their IEP.~~

NOTE: Authority cited: Sections 33031, and 56100 ~~and 56366~~, Education Code.

Reference: Sections ~~56404~~, 56366.2 and 56366.6, Education Code.

## **Article 7. Procedural Safeguards**

### **§ 3083. Service Notice.**

Notwithstanding Government Code section 11440.20 of the APA, service of notice, motions, or other writings pertaining to special education due process hearing procedures to the California ~~Special Education Hearing Office~~ public agency that is responsible for conducting due process hearings and any other person or entity are subject to the following provisions:

(a) The notice, motion, or writing shall be delivered personally or sent by mail or other means to the ~~Hearing Office~~ public agency that is responsible for conducting due process hearings, person, or entity at their last known address and, if the person or

entity is a party with an attorney or other authorized representative of record in the proceeding, to the party's attorney or other authorized representative.

(b) Unless a provision specifies the form of mail, service or notice by mail may be by first-class mail, registered mail, or certified mail, by mail delivery service, by facsimile transmission if complete and without error, or by other electronic means as provided by regulation, in the discretion of the sender.

(c) Service must be made by a method that ensures receipt by all parties and the ~~Hearing Office~~ public agency that is responsible for conducting due process hearings in a comparable and timely manner.

NOTE: Authority cited: Section 56100, Education Code. Reference: Sections 56500, 56501, 56502, 56503, 56504, 56505, 56506 and 56507, Education Code; Section 11440.20, Government Code; 20 U.S.C. Sections 1415(b)(2) and (c); and 34 C.F.R. Sections 300.507, 300.508, 300.509, 300.510, 300.511 and 300.512.

#### **§ 3084. Ex Parte Communications.**

(a) Notwithstanding Government Code sections 11425.10(a)(8), 11430.20, and 11430.30 of the APA, while special education due process hearing proceedings are pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding, to a hearing officer from an employee or representative of a party or from an interested person unless the communication is made on the record at the hearing.

(b) A proceeding is pending from the date of receipt by the California ~~Special Education Hearing Office~~ public agency that is responsible for conducting due process hearings of the request for hearing.

...

NOTE: Authority cited: Section 56100, Education Code. Reference: Sections 56500, 56501, 56502, 56503, 56504, 56505, 56506 and 56507, Education Code; Sections 11425.10, 11430.10-11430.30, 11430.50 and 11430.60, Government Code; 20 U.S.C. Sections 1415(b)(2) and (c); and 34 C.F.R. Sections 300.507, 300.508, 300.509, 300.510, 300.511 and 300.512.



1   **§ 3088. Sanctions.**

2       ...

3       (e) The presiding hearing officer may, with approval from the General Counsel of the  
4   CDE, order a party, the party's attorney or other authorized representative, or both, to  
5   pay reasonable expenses, including costs of personnel, to the California ~~Special~~  
6   ~~Education Hearing Office~~ public agency that is responsible for conducting due process  
7   hearings for the reasons set forth in Government Code section 11455.30(a).

8   NOTE: Authority cited: Section 56100, Education Code. Reference: Sections 56500,  
9   56501, 56502, 56503, 56504, 56505, 56506 and 56507, Education Code; Sections  
10   11455.10, 11455.20 and 11455.30, Government Code; 20 U.S.C. Sections 1415(b)(2)  
11   and (c); and 34 C.F.R. Section 300.511.

## **INITIAL STATEMENT OF REASONS**

### **Special Education**

#### **INTRODUCTION**

Current statutes address, in part, the requirements for the administration of the special education program. These proposed regulations are necessary to update and clarify rules governing the special education program in California. Many sections of these regulations have not been updated since the State Board of Education (SBE) adopted substantive changes on December 11, 1987, which became operative on April 20, 1988. During this time, there have been numerous statutory changes which have made some of these regulations inoperable, without merit, or contrary to current statutes. In addition, the references for many of the current regulations are outdated since there have been numerous State code changes as well as code changes to Federal statutes and regulations. Throughout these regulations, there are grammatical, punctuation, and spelling changes. To keep the public and interested parties informed of the current regulations governing the special education program in California, it is necessary to submit this proposal, consistent with the Administrative Procedures Act (APA), to initiate the rulemaking process.

The proposed regulations reflect changes in California statute affecting Part 30 of the Education Code and the Individuals with Disabilities Education Act (IDEA).

The intent of these proposed regulations is to ensure conformity with the federal IDEA (20 United States Code [U.S.C.] sections 1400 et seq.), its implementing regulations (Section 300.1 et seq. of Title 34 of the Code of Federal Regulations [C.F.R.]), Part 30 of the Education Code and its implementing regulations (section 3001 et seq. of Title 5 of the California Code of Regulations). These proposed regulations are supplemental to, and in the context of, federal and state laws and regulations relating to the provisions of special education and related services by private schools and agencies.

#### **PROBLEM AGENCY INTENDS TO ADDRESS**

Many regulations in California Code of Regulations, title 5, sections 3001-3088 have not been updated for consistency with state statutes and federal statutes and regulations since the late 1980s. Since that time, many changes have occurred both in the state and the federal requirements. As a result, conflicts between the Title 5 regulations and other germane bodies of law produce confusion for people who are involved in providing special education and related services. By amending the regulations, the California Department of Education (CDE) proposes to delete regulations that no longer have statutory authority, to update regulations that no longer conform in part to state and federal requirements, and to amend the authorities and references cited to make them useful once more.

#### **BENEFITS ANTICIPATED FROM REGULATORY ACTION**

The benefits of updating the regulations found in California Code of Regulations, title 5,

sections 3001-3088, are conformity with state statutes, federal statutes, and federal regulations. Such conformity will help bring consistency in the provision of special education and related services to children with disabilities and reduce confusion about the intent of the law among educators and service providers. Such clarity and consistency also mitigates the potential for costly due process hearings and civil suits resulting from inadvertent failures to adhere to current code.

## **SPECIFIC PURPOSE OF EACH SECTION – GOV. CODE SECTION 11346.2(b)(1)**

General changes were made for consistency to the regulations as follows:

- replace “local educational agency” with “LEA;”
- replace “individualized education program” with “IEP;”
- replace “special education local plan area” with “SELPA;”
- replace “Department” with “CDE;”
- replace “Superintendent” with “State Superintendent of Public Instruction” or “SSPI;”
- replace “subsection” with “subdivision;”
- replace “State Board of Education” with “SBE;” and
- grammatical, punctuation and/or renumbering edits.

The specific purpose of each amendment, adoption or repeal, and the rationale for the determination that each amendment, adoption or repeal is reasonably necessary to carry out the purpose for which it is proposed, together with a description of the public problem, administrative requirement, or other condition or circumstance that each amendment, adoption or repeal is intended to address, is as follows:

## **SECTION 3001. DEFINITIONS**

The provisions of this section establish definitions for the terms used by the CDE. This section currently exists as part of California Code of Regulations, title 5, Division 1, Chapter 3. References to the Education Code and the U.S.C. have been amended to accurately reflect definitions that can be found in statute and, therefore, need not be repeated in regulations. The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. Due to previous revisions to the C.F.R., a reference change has been made to identify 34 C.F.R. sections 300.4 through 300.45 as federal definitions related to the special education program. Specific Education Code sections have been deleted from the reference for this section as the corresponding subdivisions (terms defined in law) have been deleted from these regulations.

**Subdivision (g)** is amended to add the words “where applicable, benchmarks or short-term” before the word “objectives.” This is necessary due to a change in federal law. The reference for this section has been changed to include 34 C.F.R. section 300.320 as a basis for this change.

**Former subdivision (h)** is deleted because the term “State Board of Education” is already defined in Education Code section 56021.

**Subdivision (n) (formerly subdivision (q))** is amended to delete a reference to “designated instruction and services.” This amendment is necessary because Education Code section 56363 states that this term means related services. It is redundant to use the term “designated instruction and services and related services.” The Individuals with Disabilities Education Act (20 U.S.C. section 1401 [26]) and following regulations (34 C.F.R. section 300.34) use the term “related services” to mean designated instruction and services.

**Former subdivision (o)** is deleted because the term “feasible” is no longer found in Education Code section 56363(a). This statute was amended via Assembly Bill 1665 (Chapter 653, Statutes of 2005).

**Former subdivision (p)** is deleted because the term “free appropriate public education” is already defined in 34 C.F.R. section 300.17.

**Former subdivision (u)** is deleted because the term “local educational agency” is already defined in Education Code section 56026.3.

**Subdivision (u) (formerly subdivision y)** is amended to change the word “spoken” to “used” to incorporate the use of sign language.

**Subdivision (v) (formerly subdivision z)** is amended to change the word “in” to “or” because it more accurately conveys the meaning of this regulation.

**Former subdivision (aa)** is deleted because the term “related services” is already defined in 34 C.F.R. section 300.34 and Education Code section 56363.

**Former subdivision (ac)** is deleted because the term “special education” is already defined in Education Code section 56031.

**Subdivision (x) (formerly subdivision (ad))** is amended to add clarifying language to the definition of “specialized physical health care services.” This amendment is necessary in order to be consistent with the terminology for “specialized health care services” as defined in Education Code section 49423.5.

## **SECTION 3023. ASSESSMENT AND REASSESSMENT**

**Subdivision (a)** is amended to add “and reassessments.” This amendment is necessary in order to be consistent with Education Code section 56381, which adds the provision for reassessments of special education students if either the local educational agency (LEA) or parent requests a re-evaluation of the pupil based upon academic achievement and functional performance. The current regulation is limited to initial assessments related to a determination of special education eligibility and services.

**Subdivision (b)** is amended to replace “handicapping” with “disabling.” This amendment is necessary because this term represents current word usage in federal law and regulations.

The authority for this regulation has been amended to add Education Code section 56381, which addresses special education reassessments. Sections 300.304, 300.305, and 300.310 of the C.F.R. are added as references because these federal regulations singularly address special education assessment and reassessment requirements. Title 34 C.F.R. sections 300.530 and 300.532 are deleted because they refer to special education student discipline procedures and section 300.543 no longer applies as a reference citation.

### **SECTION 3025. ASSESSMENT OPTION: REFERRAL TO STATE SCHOOLS FOR FURTHER ASSESSMENT**

**Subdivisions (a) and (b)** are amended to update the reference from Diagnostic “Schools” to Diagnostic “Centers.” This amendment is necessary in order to be consistent with Education Code section 59200.

### **SECTION 3029. CONTRACTING FOR INDIVIDUALLY ADMINISTERED TESTS OF PSYCHOLOGICAL FUNCTIONING DUE TO THE UNAVAILABILITY OF SCHOOL PSYCHOLOGISTS**

**Subdivision (d)** is deleted because subdivision (b) specifies that LEAs may contract with “qualified personnel” to provide written student assessment reports. Personnel qualified to administer psychological evaluations in the State of California are not limited to Educational Psychologists. This amendment is necessary because “Qualified personnel” may include other disciplines and are governed by the Commission on Teacher Credentialing (CTC) and the California Department of Consumer Affairs (CDCA).

Section 56320(f) in the authority section is deleted because it provides a list of areas of suspected disability for which students may be assessed but does not pertain to contracting for psychological assessment.

### **SECTION 3030. ELIGIBILITY CRITERIA**

**Proposed subdivision (a)** is amended to change the term “pupil” to “child” for consistency with federal terminology governing education programs. Additional amendments are necessary because of duplication of language found in the Education Code relative to the use of single scores.

The reference to Education Code section 56341(d) is deleted from this regulation because it is limited to an invitation for the special education student to attend the IEP team meeting to discuss postsecondary goals and transition.

Education Code section 56220(a) is deleted as a reference because Education Code section 56341(b) is the correct citation for the makeup of the individualized education program (IEP) team.

**Former subdivisions (a) and (b)** have been renumbered to proposed section 3030(b)(5) and (b)(2) respectively, for consistency with the rewriting of proposed subdivision 3030(b).

**Proposed subdivision (b)** is added to reflect current special education eligibility requirements pursuant to 20 U.S.C. sections 1401(a)(3), 1414(a) and (b), and 34 C.F.R. sections 300.8, 300.300, 300.301, 300.304, 300.305, 300.306, 300.307, 300.308, 300.309, 300.311. The amendments to proposed section 3030(b)(10) are necessary to update and reflect federal regulatory requirements for determining a student's eligibility for special education under the criteria for "specific learning disabilities."

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. Section 1401(a)(3) of 20 U.S.C. defines children with disabilities and this reference has been added to this regulation; section 1401(a)(15) defines Individual Family Services Plan (IFSP) and is not specifically relevant to the specific purpose of this regulation; and sections 1414(a) and (b) outline the procedures related to evaluations to receive special education services under the IDEA.

**Former subdivision (c)** is renumbered to proposed section 3030(b)(11).

**Former subdivisions (d) through (j)** have been deleted, renumbered and incorporated throughout proposed section 3030(b).

## **SECTION 3031. ADDITIONAL ELIGIBILITY CRITERIA FOR INDIVIDUALS WITH EXCEPTIONAL NEEDS – AGE BIRTH TO YOUNGER THAN THREE YEARS**

**Subdivision (a)** is amended as a result of the Budget Act of 2009 that amended the eligibility criteria for Early Start and California Part C of the IDEA. This created a situation where there were two distinct criteria for determining eligibility for children aged birth to younger than three years served by Early Start through California's regional center system for persons with developmental disabilities and for those same-aged children served by LEAs. This misalignment of eligibility criterion has caused much confusion in the early intervention field in providing services to young children aged birth to younger than three years.

The new eligibility criteria for the Early Start Program allows infants and toddlers from birth to 36 months to receive early intervention services if through documented evaluation and assessment they meet one of the criteria listed below:

1. Have a developmental delay at or below 50 percent of their chronological age level in either cognitive, communication, social or emotional, adaptive, or physical

and motor development, including vision and hearing, or at least a 33 percent delay in two or more areas of development; or

2. Have an established risk condition of known etiology, with a high probability of resulting in delayed development.

Under current regulations, there is an eligibility gap between the Early Start Program under Part C of the IDEA (33 percent delay in two areas) and the section 3031(a)(2)(B) criteria (25 percent delay in two areas). There are a number of young children who have been found eligible for early start by LEAs using the 25 percent standard. Because these children have already been found eligible for Early Start, the local educational agencies must continue to serve them and provide them with all of the protections of the IDEA. If the LEAs wish to exit these children, they would have to find them ineligible and conduct an exit Individualized Family Service Plan (IFSP). There is also the question of the eligibility of new children. With the standard of 25 percent in the current section 3031, it is conceivable that children could be found eligible for services from LEAs, but without eligibility for Early Start. These children and their families would not have the entitlements and protections of the IDEA, Part C, or of the Education Code because all references to processes and protections in Part 30 were aligned to Part C in 1993. In order to correct these issues, new language for section 3031 is proposed to align the eligibility percentages in the two sets of regulations.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. Section 1401(a)(3) of 20 U.S.C. defines a child with a disability, and this reference has been added to this regulation; Section 1401(a)(15) defines the IFSP and is not specifically relevant to the specific purpose of this regulation; and Sections 1414(a) and (b) outline the procedures related to evaluations to receive special education services under the IDEA. The reference to 34 C.F.R. section 1432(a)(5) has been changed to section 1432(5) as this is the correct citation regarding services to infants and toddlers with disabilities. The reference to 34 C.F.R. section 300.5 has been deleted as this section defines an assistive technology device and sections 300.25 and 303.21 are added as references because they define an infant or a toddler with a disability. References to Education Code sections 56030.5, 56333, and 56337 have been deleted because these statutes address the definition of "severely disabled;" special education eligibility for language or speech disorders; and special education eligibility under specific learning disabilities, respectively.

## **SECTION 3040. INDIVIDUALIZED EDUCATION PROGRAM IMPLEMENTATION**

**Subdivision (a)** is deleted because this language is already found in Education Code section 56344(b).

**Subdivision (b)** is deleted because this language is already found in Education Code section 56341.5(j).

**Subdivision (c)** is deleted because this language is already found in Education Code section 56345.

## **SECTION 3043. EXTENDED SCHOOL YEAR**

Added language in this section to reference 34 C.F.R. section 300.106 is necessary to ensure that extended school year services are being provided consistent with federal rules. The terms “handicaps” and “handicapping” have been changed to “disabilities” and “disabling” to reflect the use of current terminology. In subdivision (d)(1), the reference to special “centers” is deleted to reflect that authority for these centers was removed from statute when Education Code section 56364.2 – which pertained to “Special Centers” – was repealed by Senate Bill 1686 in 1998. Assembly Bill 1818 of 2002 further removed reference to Special Centers from Education Code section 56361, the continuum of program options. The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. Reference to Education Code section 56345(b)(3) is added to more accurately describe extended school year services to students with disabilities consistent with 34 C.F.R. section 300.106. Section 300.106 of 34 C.F.R. is added as a reference because this section is the federal rule governing extended school year services and section 300.346 has been deleted.

## **SECTION 3051. STANDARDS FOR RELATED SERVICES**

The title of this regulation and subdivisions (a)(1) and (a)(2) are amended to delete a reference to “designated instruction and services.” This amendment is necessary because Education Code section 56363 states that this term means related services. It is redundant to use the term “designated instruction and services and related services.” The Individuals with Disabilities Education Act (20 U.S.C. section 1401 [26]) and following regulations (34 C.F.R. section 300.34) use the term “related services” to mean designated instruction and services.

**Former subdivision (a)(3)** is deleted because the reference to sections 3060 - 3065 specifically relates to nonpublic school and agency certification requirements. Related Services, in addition to nonpublic schools and agencies, are also provided by LEAs and public agencies. The entities are not subject to nonpublic school and agency certification requirements and have personnel boards that establish their own minimum employee qualifications.

**Subdivision (a)(3) (formerly (a)(4))** is amended to 1) delete a reference to “designated instruction and services” because Education Code section 56363 states that this term means related services, and 2) to add language to provide the necessary guidance that entities or individuals providing related services must meet federal regulatory personnel qualifications.



**Subdivision (a)(3)(C)** is amended to change the “State Departments of Health Services or Mental Health” to “State Departments of Health Care Services or State Hospitals.” This is necessary due to a state reorganization. The addition of the word “health” is inserted after the word “mental.” This amendment is necessary in order to accurately describe mental health agencies.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The reference to 34 C.F.R. section 300.34 has been added because this section defines related services. The reference to 34 C.F.R. section 300.156(b) has been added because this section provides federal guidance relative to qualifications that are required of related services personnel.

## **SECTION 3051.1. LANGUAGE, SPEECH AND HEARING DEVELOPMENT AND REMEDIATION**

**Subdivision (a)** is amended to eliminate any reference to personnel qualifications and limits the language to define this service category. While personnel must be qualified to provide language, speech and hearing services, minimum qualifications are governed by the local educational or public educational agency consistent with professional requirements established for this service by the CDCA or the CTC.

**Subdivision (c)** is amended to replace the word “credentialed” with “qualified” because individuals in California are authorized to provide language, speech and hearing services by both the CDCA and the CTC. The words “noncertificated personnel” have been replaced with “aides” for consistency with the reference to an “aide” in the first sentence of this section.

**Subdivision (d)** is added to recognize that individuals who are either licensed by the CDCA or have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide language, speech and hearing services.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. Education Code section 56363.3 has been added as a reference as this specifies the maximum caseload for language, speech and hearing specialists. Section 300.13(b)(12) of 34 C.F.R. has been deleted as a reference because this section provides a definition for Elementary Schools and has no subdivision. The reference to 34 C.F.R. section 300.34 has been added because this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added because this section provides federal guidance relative to qualifications that are required of related services personnel.

## **SECTION 3051.2. AUDIOLOGICAL SERVICES**

**Subdivision (a)** is amended to delete the reference to 34 C.F.R. section 300.13(b)(1). This amendment is necessary because this particular section provides a definition for Elementary Schools. Section 300.34 of 34 C.F.R. is added because this rule defines and establishes personnel standards for audiological services.

**Subdivision (b)** is amended to replace the phrase “The person” with “Individuals” for clarification purposes. This amendment is necessary to recognize that individuals who are either licensed by the CDCA or have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide audiological services.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The U.S.C. and the C.F.R. do not grant authority to the SBE to promulgate regulations. Section 300.13(b)(1) of 34 C.F.R. has been deleted as a reference since this section provides a definition for Elementary Schools and has no subsections. The reference to 34 C.F.R. section 300.34 has been added because this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added because this section provides federal guidance relative to qualifications that are required of related services personnel.

### **SECTION 3051.3. ORIENTATION AND MOBILITY INSTRUCTION**

**Section title and subdivision (a)** are amended to add the word “orientation.” This amendment is necessary to be consistent with the type of service stated in Education Code section 56363(b)(3) and 34 C.F.R. section 300.34.

**Subdivision (b)** is amended to replace the phrase “The person” with “Individuals.” This amendment is necessary to recognize that individuals who are either licensed by the CDCA or have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide orientation and mobility services. The words “orientation and” have been added to this subdivision to accurately define this related service.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The U.S.C. and the C.F.R. do not grant authority to the SBE to promulgate regulations. The reference to 34 C.F.R. section 300.34 has been added because this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added because this section provides federal guidance relative to qualifications that are required of related services personnel.

### **SECTION 3051.4. INSTRUCTION IN THE HOME OR HOSPITAL**

**Subdivision (e)** is amended to delete a reference to “designated instruction and services.” This amendment is necessary because Education Code section 56363 states that this term means related services. It is redundant to use the term “designated

instruction and services and related services.” The Individuals with Disabilities Education Act (20 U.S.C. section 1401 [26]) and following regulations (34 C.F.R. section 300.34) use the term “related services” to mean designated instruction and services.

## **SECTION 3051.5. ADAPTED PHYSICAL EDUCATION FOR INDIVIDUALS WITH EXCEPTIONAL NEEDS**

**Subdivision (b)** is amended to replace the phrase “The person” with “Individuals.” This amendment is necessary to recognize that individuals who have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide adapted physical education.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The reference to 34 C.F.R. section 300.307 has been deleted as this regulation addresses protections for students with specific learning disabilities. Education Code section 56363(b)(5) has been added as a reference as this code identifies adapted physical education as a related service.

## **SECTION 3051.6. PHYSICAL AND OCCUPATIONAL THERAPY**

**Subdivision (a)(1)** is amended to clarify the scope and definition of occupational therapy services pursuant to Business and Professions Code section 2570.2.

**Subdivision (b)** is amended to replace the phrase “qualifications of therapists” with the phrase “Individuals providing physical or occupational therapy shall be qualified.” This amendment is necessary to recognize that individuals who are licensed by the CDCA, and also meet the minimum qualifications of the employing agency, may provide physical and occupational therapy.

**Subdivision (b)(1)** is deleted because the CDCA and the employing agency are the entities that determine whether a person is qualified to provide either physical or occupational therapy services.

**Subdivision (b)(2)** is deleted because the Board of Medical Quality Assurance has been abolished by the State of California. Physical Therapists are now licensed by the CDCA, Physical Therapy Board.

**Subdivision (b)(3)** is deleted because the CDCA, Occupational Therapy Board is the sole entity that licenses Occupational Therapists to practice in the State of California.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The reference to 34 C.F.R. sections 300.13(b)(5) and 300.13(b)(7) has been deleted since this section provides a definition for Elementary Schools and has no subsections. Section 300.600 of 34 C.F.R. has been deleted as a reference because this section outlines the monitoring responsibilities of State

Education Agencies. The reference to 34 C.F.R. section 300.34 has been added because this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added as this section provides federal guidance relative to qualifications that are required of related services personnel.

#### **SECTION 3051.7. VISION SERVICES**

**Subdivision (a)** is amended to eliminate any reference to personnel qualifications and limits the language to define this service category. While personnel must be qualified to provide vision services, minimum qualifications are governed by the LEA or public educational agency consistent with professional requirements established for this service by the CDCA or the CTC.

**Subdivision (e)** is added to recognize that individuals who are either licensed by the CDCA or have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide vision services.

#### **SECTION 3051.10. PSYCHOLOGICAL SERVICES OTHER THAN ASSESSMENT AND DEVELOPMENT OF THE IEP**

**Former subdivision (a)** is deleted to eliminate any reference to personnel qualifications. This amendment is necessary because while personnel must be qualified to provide psychological services, minimum qualifications are governed by the LEA or public educational agency consistent with professional requirements established for this service by the CDCA or the CTC.

**Subdivision (c)** is added to recognize that individuals who are either licensed by the CDCA or have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide psychological services.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The U.S.C. and the C.F.R. do not grant authority to the SBE to promulgate regulations. The reference to 34 C.F.R. section 300.13(b)(8) has been deleted as a reference because this section provides a definition for Elementary Schools and has no subdivisions. The reference to 34 C.F.R. section 300.34 has been added as this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added as this section provides federal guidance relative to qualifications that are required of related services personnel.

#### **SECTION 3051.11. PARENT COUNSELING AND TRAINING**

**Subdivision (c)** is added to recognize that individuals who are either licensed by the CDCA or have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide parent counseling and training.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The U.S.C. and the C.F.R. do not grant authority to the SBE to promulgate regulations. The reference to 34 C.F.R. section 300.13(b)(6) has been deleted as a reference since this section provides a definition for Elementary Schools and has no subdivisions. The reference to 34 C.F.R. section 300.34 has been added as this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added as this section provides federal guidance relative to qualifications that are required of related services personnel.

#### **SECTION 3051.14. SPECIALLY DESIGNED VOCATIONAL EDUCATION AND CAREER DEVELOPMENT**

**Subdivision (i)** is added to recognize that individuals who have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide specially designed vocational education and career development.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The reference to 34 C.F.R. section 300.14(b)(3) has been deleted as a reference since this section provides a definition for Equipment and has no subdivision (b)(3). The reference to 34 C.F.R. section 300.34 has been added as this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added as this section provides federal guidance relative to qualifications that are required of related services personnel.

#### **SECTION 3051.15. RECREATION SERVICES**

**Subdivision (d)** is added to clarify that individuals who meet the minimum qualifications of the employing agency may provide recreation services.

The authority for this regulation has been changed to more accurately identify Education Code section 56100(a) as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The reference to 34 C.F.R. section 300.13(b)(9) has been deleted as a reference since this section provides a definition for Elementary Schools and has no subdivisions. The reference to 34 C.F.R. section 300.34 has been added as this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added as this section provides federal guidance relative to qualifications that are required of related services personnel.

#### **SECTION 3051.16. SPECIALIZED SERVICES FOR LOW-INCIDENCE DISABILITIES**

**Subdivisions (b), (b)(1) and (b)(2)** are deleted because they refer to deadlines in the past, and the continued inclusion of this language has no merit.

**Proposed subdivision (b) (formerly subdivision (b)(3))** is amended to delete the phrase “By July 1, 2009, and thereafter.” This amendment is necessary because this deadline is in the past, and the continued inclusion of this language has no merit.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code.

## **SECTION 3051.18. RELATED SERVICES FOR THE DEAF AND HARD OF HEARING**

The title of this section has been amended to delete the reference to “designated instruction and services.” This amendment is necessary because Education Code section 56363 states that this term means related services. It is redundant to use the term “designated instruction and services and related services.” The Individuals with Disabilities Education Act (20 U.S.C. section 1401 [26]) and following regulations (34 C.F.R. section 300.34) use the term “related services” to mean designated instruction and services.

## **SECTION 3054. SPECIAL CENTER**

This section is being repealed because the authority for special centers was removed from statute when Education Code section 56364.2 – which pertained to “Special Centers” – was repealed by Senate Bill 1686 in 1998. Assembly Bill 1818 of 2002 further removed reference to Special Centers from Education Code section 56361, the continuum of program options.

## **SECTION 3060. APPLICATION FOR CERTIFICATION**

**Subdivision (c)(9)** is amended to add the phrase “for nonpublic schools.” This amendment is necessary to clarify that the textbook requirements apply only to nonpublic schools and not to nonpublic agencies.

**Subdivision (c)(22)(E)** is amended to delete the phrase “of care” and replace it with the word “classification.” This amendment is necessary because it reflects the correct terminology established by the California Department of Social Services in rating licensed community care facilities.

**Subdivision (c)(22)(F)** is added to include a copy of the current residential care license. In previous regulations governing nonpublic school certification, a copy of the residential care license was required, however, this document was inadvertently removed from the regulations in 2009. The inclusion of this requirement is necessary due to the monitoring changes of nonpublic schools as required by Assembly Bill 114 that became effective July 1, 2011.

**Subdivision (d)(7)** is amended to add language linking this regulation to Education

Code section 49001. This amendment is necessary to clarify that there is a prohibition relative to the use of corporal punishment in law and that nonpublic schools must abide by this requirement.

The authority and reference citations for this regulation have been changed to more accurately identify Education Code sections 56100 as the legal citations for the SBE to adopt regulations to administer Part 30 of the Education Code. Education Code section 56520 has been added to the reference citations to clarify legislative intent for the use of behavioral interventions instead of corporal punishment.

### **SECTION 3061. SERVICE FEES, FINANCE AND MAINTENANCE OF RECORDS**

The first paragraph in section 3061 is amended to add the word “nonpublic” before the word “agencies.” This amendment is necessary to clarify that the regulation pertains to both nonpublic schools and nonpublic agencies.

**Subdivision (a)** is amended to delete the phrase “designated instruction and services and.” This amendment is necessary because Education Code section 56363 states that this term means related services. It is redundant to use the term “designated instruction and services and related services.” The Individuals with Disabilities Education Act (20 U.S.C. section 1401 [26]) and following regulations (34 C.F.R. section 300.34) use the term “related services” to mean designated instruction and services.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code.

### **SECTION 3064. STAFF QUALIFICATIONS – SPECIAL EDUCATION INSTRUCTION**

**Subdivision (a)(1)** is amended to remove the option for a nonpublic school to employ a person with a Temporary County Certificate. Temporary County Certificates are a short-term stand-in for the credential or permits being applied from the CTC. These certificates are issued by counties, not the CTC. This amendment is necessary because it is inappropriate to recognize a Temporary County Certificate as a formal authorization for service for any period of time. The CTC only issues Provisional Internship or Short Term Staff permits if an employer is able to document an unanticipated staffing shortage. In addition, the period of time a person can be in this position at a nonpublic school has also been removed. The CTC issues the permits for a time period as specified in law and it is, therefore, not appropriate to use regulations to further limit their term of validity.

### **SECTION 3065. STAFF QUALIFICATIONS – RELATED SERVICES**

The first paragraph in section 3065 is amended to delete the reference to “designated instruction and.” This amendment is necessary because Education Code section 56363 states that this term means related services. It is redundant to use the term “designated instruction and services and related services.” The Individuals with Disabilities

Education Act (20 U.S.C. section 1401 [26]) and following regulations (34 C.F.R. section 300.34) use the term “related services” to mean designated instruction and services. This paragraph is also amended to add the word “nonpublic” before the word “agencies.” This amendment is necessary to clarify that the regulation pertains to both nonpublic schools and nonpublic agencies.

**Former subdivisions (a)(1) through (a)(1)(B)** are deleted because adapted physical education is defined in section 3051.5.

**Subdivision (a) (formerly subdivision (a)(2))** is amended to add the phrase “as defined in section 3051.5.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for adapted physical education.

**Subdivision (b)(2)(H)** is amended to replace the word “handicapped” with “impaired.” This amendment is necessary to represent current word usage by the CTC when issuing credentials.

**Former subdivision (c)(1)** is deleted because audiological services are defined in section 3051.2.

**Subdivision (c) (formerly subdivision (c)(2))** is amended to add the phrase “as defined in section 3051.2.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for audiological services.

**Subdivision (e)** is amended to replace behavior “modification” with behavior “intervention.” This amendment is necessary to make this section’s terminology consistent with the regulatory language subsequently introduced through the “Hughes Bill,” Assembly Bill 2586 (Chapter 959, Statutes of 1990) and with Education Code sections 56520, 56523 and 56524.

**Former subdivision (f)(1)** is deleted because counseling and guidance is defined in section 3051.9.

**Subdivision (f) (formerly subdivision (f)(2))** is amended to add the phrase “as defined in section 3051.9.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for counseling and guidance.

**Former subdivision (g)(1)** is deleted because early education programs for children with disabilities are defined in Education Code section 56426.

**Subdivision (g) (formerly subdivision (g)(2))** is amended to add the phrase “as defined in Education Code section 56426.” This amendment is necessary to refer interested parties to the section that provides a definition for early education programs. The words “all other requirements of” and “chapter 4.4 commencing with” are deleted for purposes of grammatical clarity. Reference to Education Code section 56425 is deleted because this section addresses the infant program mandate. Education Code



section 56426.2 is added because this section describes the program requirements for early education services pursuant to existing state law.

**Subdivisions (h)(1) and (h)(1)(A)** are deleted because the subdivisions refer to a deadline in the past, and the continued inclusion of this language has no merit.

**Subdivision (h)(1) (formerly (h)(1)(B))** is amended to delete the phrase “By July 1, 2009, and thereafter.” This amendment is necessary because the deadline is in the past, and the continued inclusion of this language has no merit.

**Subdivisions (i)(1) through (i)(1)(E)** are deleted because health and nursing services is defined in section 3051.12.

**Subdivision (i) (formerly (i)(2))** is amended to add the phrase “as defined in section 3051.12.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for health and nursing services.

**Former subdivision (j)(1)** is deleted because home and hospital instruction is defined in section 3051.4.

**Subdivision (j) (formerly (j)(2))** is amended to add the phrase “as defined in section 3051.4.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for home and hospital instruction.

**Subdivision (k)(1)** is deleted because language and speech development and remediation is defined in section 3051.1.

**Subdivision (k) (formerly (k)(2))** is amended to add the phrase “as defined in section 3051.1.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for language and speech development and remediation.

**Proposed subdivision (k)(2)(A)** is added to clarify the provisions of Education Code section 56363(b)(1) that allow Speech-Language Pathology Assistants to provide Language and Speech Development and Remediation Services; however, Business and Professions Code section 2320(i) requires the Speech-Language Pathology Assistants to be under the supervision of a Speech-Language Pathologist.

**Subdivision (l)(1)** is deleted because occupational therapy is defined in section 3051.6.

**Proposed subdivision (l)** is added to recognize that Music Therapy is a specific related service that may be necessary for special education students to benefit from their education. This amendment is necessary because without this addition, music therapy could not be accessed by LEAs through the nonpublic school and agency certification program.

**Subdivision (m) (formerly (l)(2))** is amended to add the phrase “as defined in section 3051.6.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for occupational therapy.

**Subdivision (m)(1)** is deleted because orientation and mobility instruction is defined in section 3051.3.

**Subdivision (n) (formerly (m)(2))** is amended to add the phrase “as defined in section 3051.3.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for orientation and mobility instruction.

**Subdivision (n)(1)** is deleted because parent counseling and training is defined in section 3051.11.

**Subdivision (o) (formerly (n)(2))** is amended to add the phrase “as defined in section 3051.11.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for parent counseling and training.

**Subdivisions (o)(1)(A) through (o)(1)(E)** are deleted because physical therapy is defined in section 3051.6.

**Subdivision (p) (formerly (o)(2))** is amended to add the phrase “as defined in section 3051.6.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for physical therapy.

**Subdivisions (q)(1)(A) through (C)** are deleted because recreation services are defined in section 3051.15.

**Subdivision (r) (formerly (q)(2))** is amended to add the phrase “as defined in section 3051.15.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for recreation services.

**Subdivisions (r)(1)(A) through (C)** are deleted because social worker services are defined in section 3051.13.

**Subdivision (s) (formerly (r)(2))** is amended to add the phrase “as defined in section 3051.13.” This amendment is necessary in order to refer interested parties to that portion of the regulations that provides a definition for social worker services.

**Subdivision (s)(1)** is deleted because specialized driver training instruction is defined in section 3051.8.

**Subdivision (t) (formerly (s)(2))** is amended to add the phrase “instruction, as defined in section 3051.8.” This amendment is necessary in order to refer interested parties to that portion of the regulations that provides a definition for specialized driver training instruction. The word “instruction” is added to this subdivision to accurately describe this related service.

**Subdivisions (t)(1)(A) through (H)** are deleted since specially designed vocational education and career development is defined in section 3051.14.

**Subdivision (u) (formerly (t)(2))** is amended to add the phrase “as defined in section 3051.14.” This amendment is necessary in order to refer interested parties to that portion of the regulations that provides a definition for specially designed vocational education and career development.

**Subdivisions (u)(1)(A) and (B)** are deleted because specialized services for low incidence disabilities are defined in section 3051.16.

**Subdivision (v) (formerly (u)(2))** is amended to add the phrase “as defined in section 3051.16.” This amendment is necessary in order to refer interested parties to that portion of the regulations that provides a definition for specialized services for low incidence disabilities.

**Subdivisions (w)(1)(A) and (B)** are deleted because vision services is defined in section 3051.7.

**Subdivision (x) (formerly (w)(2))** is amended to add the phrase “as defined in section 3051.7.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for vision services.

**NOTE SECTION:** The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. Business and Professions Code section 2530 has been added as a reference since this code is the Speech-Language Pathologists and Audiologists Licensure Act and provides the requirements to provide speech therapy and related services in California. Business and Professions Code section 2570.2 has been added as a reference since this code provides the requirements to provide occupational therapy in California. Education Code section 56363 has been added as a reference since this code defines and lists related services for special education students in California. Education Code section 56426 has been added as a reference as this code established the purpose and focus for California’s early education programs. Education Code section 56426.1 has been added as a reference as this code defines home-based early education programs. Education Code section 56430 has been added as a reference since this code describes the various methods of providing early education programs in California.

## **SECTION 3068. APPEALS INFORMATION**

The title of this section is amended to remove the words “and Waivers” and add the word “Information.” This amendment is necessary in order to be more reflective of the contents found in this section. Information relative to waiver requests is found in Education Code section 56366.2.

**Subdivision (e)** is deleted because it is unnecessary. Specific and detailed information to request the State Superintendent of Public Instruction (SSPI) to waive specific sections of the Education Code is found in Education Code section 56366.2.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. Education Code section 56101 has been deleted as a reference since this code discusses waivers requested from the SBE. Section 3068 addresses only appeals made to the SSPI.

### **SECTION 3083. SERVICE NOTICE**

The preamble and subdivisions (a) and (c) are amended to delete reference to the Special Education Hearing Office (SEHO). This amendment is necessary because the SEHO has not provided special education due process hearings and mediations since 2005. The proposed new reference reflects the language found in federal regulations pertinent to this function.

### **SECTION 3084. EX PARTE COMMUNICATIONS**

**Subdivision (b)** is amended to delete reference to the SEHO. This amendment is necessary because the SEHO has not provided special education due process hearings and mediations since 2005. The proposed new reference reflects the language found in federal regulations pertinent to this function.

### **SECTION 3088. SANCTIONS**

**Subdivision (e)** is amended to delete reference to the SEHO. This amendment is necessary because the SEHO has not provided special education due process hearings and mediations since 2005. The proposed new reference reflects the language found in federal regulations pertinent to this function.

### **ECONOMIC IMPACT ANALYSIS PER GOVERNMENT CODE SECTION 11346.3(b)**

The Special Education Division does not have any information that the proposed amendments would have any measurable effect on business because the purpose of introducing this rulemaking process is to update state regulations by bringing them into alignment with existing state statutes and federal statutes and regulations.

Therefore, amendment of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Updating these regulations will help to ensure the consistent application of existing laws throughout California's educational entities for all students with IEPs; to standardize guidance for monitoring purposes for compliance with state and federal requirements;

and to facilitate the appropriateness of administrative and judicial decisions predicated on California law.

## **OTHER REQUIRED SHOWINGS**

### **Studies, Reports or Documents Relied Upon – Gov. Code. Section 11346.2(b)(3):**

The SBE did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the adoption, amendment, or repeal of these regulations.

### **Reasonable Alternatives Considered Or Agency's Reasons For Rejecting Those Alternatives – Gov. Code Section 11346.2(b)(5)(A):**

No other alternatives were presented to or considered by the (SSPI or SBE).

### **Reasonable Alternatives That Would Lessen The Impact On Small Businesses – Gov. Code Section 11346.2(b)(5)(B):**

The SBE has not identified any alternatives that would lessen any adverse impact on small business.

### **Evidence Relied Upon To Support the Initial Determination That the Regulations Will Not Have A Significant Adverse Economic Impact on Business – Gov. Code Section 11346.2(b)(6):**

The proposed regulations would not have a significant adverse economic impact on any business.

### **Analysis Of Whether The Regulations Are An Efficient And Effective Means Of Implementing The Law In The Least Burdensome Manner – Gov. Code Section 11346.3(e)**

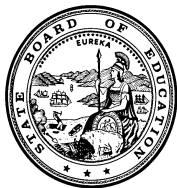
The regulations have been determined to be the most efficient and effective means of implementing the law in the least burdensome manner.



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 18**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

SUBJECT	
Consideration of Requests for Determination of Funding as Required for Nonclassroom-based Charter Schools Pursuant to California <i>Education Code</i> sections 47612.5 and 47634.2, and associated <i>California Code of Regulations</i> , Title 5.	<input checked="" type="checkbox"/> Action <input checked="" type="checkbox"/> Information <input type="checkbox"/> Public Hearing

#### SUMMARY OF THE ISSUE(S)

California *Education Code* (EC) sections 47612.5 and 47634.2 specify that a charter school may receive apportionment funding for nonclassroom-based instruction only if a determination of funding is made by the State Board of Education (SBE). The charter schools listed in Attachment 1 are requesting SBE approval of their determination of funding request. Approval of these requests will allow the charter schools listed in Attachment 1 to receive apportionment funding.

#### RECOMMENDATION

##### California Department of Education Recommendation

The California Department of Education (CDE) recommends that the SBE approve a determination of funding, identified in Attachment 1, for charter schools that offer nonclassroom-based instruction.

##### Advisory Commission on Charter Schools Recommendation

The Advisory Commission on Charter Schools met on April 10, 2013, and voted to move the CDE's staff recommendation to the SBE for the determination of funding requests for the charter schools identified in Attachment 1. The motion passed unanimously.

## **BRIEF HISTORY OF KEY ISSUES**

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Pursuant to the *California Code of Regulations (CCR)*, charter schools requesting a determination of full (100 percent) funding meet the following criteria:

- At least 40 percent of the school's public revenues are to be spent on salaries and benefits for all employees who possess a valid teaching certificate.
- At least 80 percent of all revenues are to be spent on instruction and related services.
- The ratio of average daily attendance for independent study pupils to full-time certificated employees does not exceed a pupil-teacher ratio of 25:1.

Additionally, any SBE-approved determination of funding shall be in increments of a minimum of two years and a maximum of five years in length. *CCR*, Title 5 Section 11963.6(a) requires a determination of two years for a new charter school in its first year of operation. Furthermore, *EC* Section 47612.5(d)(2) requires a determination of five years for a charter school that has achieved a rank of six or greater on the Academic Performance Index (API) for the two years immediately prior to receiving a determination of funding. When making a recommendation for a funding determination, the CDE also considers the number of years a school has been in operation and the number of years requested by the charter school. The funding determination requests are provided in Attachments 2 through 78 of Agenda Item 1 on the ACCS April 10, 2013, Meeting Notice for the ACCS Web page located at <http://www.cde.ca.gov/be/cc/cs/accsnotice041013.asp>.

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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The SBE is responsible for approving a determination of funding to establish eligibility for apportionment funding for charter schools that offer nonclassroom-based instruction. The CDE notes that this request is a recurring action item for the SBE.

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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If approved, the charter schools listed in Attachment 1 would receive apportionment funding under the charter school block grant funding model. Funding is based on the statewide average funding levels for each grade span (kindergarten through grade three, grades four through six, grades seven through eight, and grades nine through twelve). Calculations use revenue limits for unified, elementary, and high school districts.



## **ATTACHMENTS**

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Attachment 1: California Department of Education Proposed Determination of Funding Recommendation (13 Pages)

**California Department of Education  
Proposed Determination of Funding Recommendation**

**Proposed Recommendation – New Charter Schools  
Fiscal Year 2012–13 through 2013–14**

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
33-67157-0125666	1380	Riverside	Excel Prep Charter School - IE	2012–13	100% 5 Years	100% 2 Years	Not Required*		Not Required*	
39-68650-0125849	1398	San Joaquin	California Connections Academy @Ripon	2012–13	100% 5 Years	100% 2 Years	Not Required*		Not Required*	
29-10298-0126219	1427	Nevada	Forest Charter School	2012–13	100% 5 Years	100% 2 Years	Not Required*		Not Required*	
29-10298-0126227	1428	Nevada	Twin Ridges Home Study Charter School	2012–13	100% 5 Years	100% 2 Years	Not Required*		Not Required*	
31-10314-0126904	1432	Placer	Placer County Pathways	2012–13	100% 5 Years	100% 2 Years	Not Required*		Not Required*	
37-68213-0127068	1452	San Diego	Del Mar Elementary	2012–13	100% 2 Years	100% 2 Years	Not Required*		Not Required*	

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
37-68213-0127050	1453	San Diego	El Cajon Middle and High School	2012–13	100% 2 Years	100% 2 Years	Not Required*		Not Required*	
37-68213-0127084	1454	San Diego	Del Mar Middle & High School	2012–13	100% 2 Years	100% 2 Years	Not Required*		Not Required*	
56-72504-0127043	1455	Ventura	Academy of Arts & Sciences Thousand Oaks & Simi Valley	2012–13	100% 2 Years	100% 2 Years	Not Required*		Not Required*	
56-72504-0127076	1456	Ventura	Academy of Arts & Sciences Oxnard & Ventura	2012–13	100% 2 Years	100% 2 Years	Not Required*		Not Required*	
49-73882-0127092	1457	Sonoma	Academy of Arts & Sciences Sonoma	2012–13	100% 2 Years	100% 2 Years	Not Required*		Not Required*	
19-75309-0127100	1458	Los Angeles	Assurance Learning Academy	2012–13	100% 2 Years	100% 2 Years	Not Required*		Not Required*	
39-68627-0127191	1489	San Joaquin	California Virtual Academy @ San Joaquin	2012–13	100% 5 Years	100% 2 Years	Not Required*		Not Required*	

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
15-63628-0127183	1490	Kern	California Virtual Academy @ Maricopa	2012–13	100% 5 Years	100% 2 Years	Not Required*		Not Required*	
15-63628-0127209	1491	Kern	California Virtual Academy @ Maricopa High School	2012–13	100% 5 Years	100% 2 Years	Not Required*		Not Required*	
10-62331-0127175	1492	Fresno	California Virtual Academy @ Fresno	2012–13	100% 5 Years	100% 2 Years	Not Required*		Not Required*	

\*– Not Required: Pursuant to 5 CCR Section 11963.6(a), a funding determination for a charter school in its first year of operation shall be for two fiscal years. The API is applicable for funding requests of five years.

**Proposed Recommendation – New Charter Schools  
Fiscal Year 2013–14 through 2014–15**

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
10-62547-0127159	1463	Fresno	Opportunities For Learning - Fresno	2012–13	100% 5 Years	100% 2 Years	Not Required*		Not Required*	

\* – Not Required: Pursuant to 5 CCR Section 11963.6(a), a funding determination for a charter school in its first year of operation shall be for two fiscal years. The API is applicable for funding requests of five years.

**Proposed Recommendation – Continuing Charter Schools  
Fiscal Year 2013–14 through 2017–18**

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
45-70110-4530341	0490	Shasta	Stellar Secondary Charter School	2002–03	100% 5 Years	100% 5 Years	800	8	785	7
50-71043-0107136	0658	Stanislaus	Whitmore Charter High School	2004–05	100% 5 Years	100% 5 Years	811	8	830	9

**Proposed Recommendation – Continuing Charter Schools  
Fiscal Year 2013–14 through 2016–17**

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
36-67934-3630670	0013	San Bernardino	Options For Youth Victor Valley	1993–94	85% 4 Years	85% 4 Years	Not Required*		Not Required*	
58-10587-5830112	0092	Yuba	Yuba County Career Preparatory Charter School	1995–96	100% 5 Years	100% 4 Years	537	1	513	1

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
50-75564-5030176	0103	Stanislaus	Oakdale Charter High School	1996–97	100% 5 Years	100% 4 Years	638	2	660	2
19-75291-1996016	0117	Los Angeles	Options For Youth San Gabriel	1997–98	85% 5 Years	85% 4 Years	653	2	649	2
32-66969-3230083	0146	Plumas	Plumas Charter School	1998–99	100% 5 Years	100% 4 Years	639	2	691	3
01-61176-0130534	0152	Alameda	The Circle of Independent Learning Charter School	1998–99	100% 5 Years	100% 4 Years	743	5	773	6
34-67447-3430691	0217	Sacramento	Options For Youth San Juan	1999–00	85% 5 Years	85% 4 Years	685	3	675	2
45-70110-6116925	0223	Shasta	Stellar Charter School	1999–00	100% 5 Years	100% 4 Years	798	5	826	6
34-67447-3430717	0248	Sacramento	Visions In Education	1999–00	100% 5 Years	100% 4 Years	701	4	704	3

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
34-67447-3430758	0275	Sacramento	Choices Charter School	1999–00	100% 5 Years	100% 4 Years	656	2	642	2
36-67876-3630993	0335	San Bernardino	PAL Charter Academy	2000–01	100% 5 Years	100% 4 Years	452	ASAM	391	ASAM
34-73973-3430816	0344	Sacramento	Antelope View Charter School	2000–01	100% 4 Years	100% 4 Years	Not Required*		Not Required*	
08-10082-0830059	0358	Del Norte	Castle Rock Charter School	2001–02	100% 5 Years	100% 4 Years	648	ASAM	618	ASAM
19-64246-1996537	0411	Los Angeles	Desert Sands Charter High School	2001–02	100% 4 Years	100% 4 Years	Not Required*		Not Required*	
52-71605-6119671	0430	Tehama	eScholar Academy	2002–03	100% 5 Years	100% 4 Years	673	ASAM	646	ASAM
50-75572-5030317	0477	Stanislaus	Connecting Waters Charter School	2002–03	100% 5 Years	100% 4 Years	727	2	723	2

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
49-70730-6120588	0492	Sonoma	Pathways Charter School	2002–03	100% 5 Years	100% 4 Years	706	4	738	5
50-71043-6120828	0504	Stanislaus	Whitmore Charter School Personalized Learning	2002–03	100% 5 Years	100% 4 Years	Not Available <sup>1</sup>		675	1
37-68189-0118323	0991	San Diego	National University Academy	2008–09	100% 5 Years	100% 4 Years	640	2	634	1
34-76505-0108415	0687	Sacramento	Heritage Peak Charter School	2005–06	100% 5 Years	100% 4 Years	688	3	678	2
34-76505-0108837	0699	Sacramento	Community Collaborative Charter School	2005–06	100% 5 Years	100% 4 Years	554	ASAM	644	ASAM
54-72256-0109751	0720	Tulare	Visalia Charter Independent Study	2005–06	100% 5 Years	100% 4 Years	634	ASAM	653	ASAM
37-73791-0109785	0723	San Diego	Bayshore Preparatory Charter School	2005–06	100% 4 Years	100% 4 Years	Not Required*		Not Required*	



County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
51-71407-0109793	0724	Sutter	South Sutter Charter School	2005–06	100% 5 Years	100% 4 Years	687	1	705	1
56-10561-0109900	0735	Ventura	Vista Real Charter High School	2005–06	100% 4 Years	100% 4 Years	Not Required*		Not Required*	
10-10108-0109991	0746	Fresno	Crescent View West Charter	2005–06	100% 4 Years	100% 4 Years	Not Required*		Not Required*	
42-69112-0111773	0763	Santa Barbara	Family Partnership Charter School	2006–07	100% 5 Years	100% 4 Years	746	5	752	3
19-64857-0112714	0841	Los Angeles	Antelope Valley Learning Academy	2006–07	100% 4 Years	100% 4 Years	Not Required*		Not Required*	
19-64287-0114397	0874	Los Angeles	Opportunities for Learning – Baldwin Park II	2007–08	85% 4 Years	85% 4 Years	Not Required*		Not Required*	
36-75044-0114389	0885	San Bernardino	Mirus Secondary School	2007–08	100% 5 Years	100% 4 Years	572	ASAM	520	ASAM

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
19-65136-0114439	0888	Los Angeles	Mission View Public School	2007–08	100% 4 Years	100% 4 Years	Not Required*		Not Required*	
10-62166-0114355	0898	Fresno	Sierra Charter School	2007–08	100% 5 Years	100% 4 Years	646	2	661	2
36-75051-0115089	0905	San Bernardino	Sky Mountain Charter School	2007–08	100% 5 Years	100% 4 Years	740	2	763	3
19-64907-0115170	0914	Los Angeles	School of Extended Educational Options	2007–08	100% 5 Years	100% 4 Years	615	ASAM	504	ASAM
19-64246-0115337	0915	Los Angeles	Los Angeles County Online High School	2007–08	100% 5 Years	100% 4 Years	690	3	667	2
04-10041-0114991	0945	Butte	CORE Butte Charter	2007–08	100% 5 Years	100% 4 Years	789	5	785	4
37-67983-0117887	1021	San Diego	Juan Bautista de Anza	2008–09	100% 5 Years	100% 4 Years	Not Available <sup>2</sup>		617	1

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
19-64881-0118075	1031	Los Angeles	Learning Works	2008–09	100% 5 Years	100% 4 Years	448	ASAM	503	ASAM
18-64162-0118067	1032	Lassen	Juniper Ridge Virtual Academy	2008–09	100% 5 Years	100% 4 Years	726	2	741	2
19-64600-0120543	1130	Los Angeles	Opportunities for Learning – Hermosa Beach	2009–10	85% 4 Years	85% 4 Years	Not Required*		Not Required*	
19-64600-0120550	1131	Los Angeles	Options For Youth Hermosa Beach	2009–10	100% 4 Years	100% 4 Years	Not Required*		Not Required*	
36-67876-0120568	1132	San Bernardino	Options For Youth San Bernardino	2009–10	100% 4 Years	100% 4 Years	Not Required*		Not Required*	
08-10082-0114116	0859	Del Norte	Uncharted Shores Academy	2007–08	100% 5 Years	100% 4 Years	622	1	628	1
19-64584-1996305	0285	Los Angeles	Gorman Learning Center	2000–01	100% 5 Years	100% 4 Years	686	3	694	3

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
10-62539-6112387	0044	Fresno	West Park Charter Academy	1994–95	100% 5 Years	85% 4 Years	603	ASAM	548	ASAM
50-71068-5030267	0357	Stanislaus	Denair Charter Academy	2001–02	100% 5 Years	100% 4 Years	538	1	540	1

\*– Not Required: Charter school request is for less than five years. EC Section 47612.5(d)(2) requires a determination of five years for a charter school that has achieved a rank of six or greater on the API for the two years immediately prior to receiving a determination of funding.

<sup>1</sup>– Not Available: No API base data is available.

<sup>2</sup>– Not Available: There were fewer than 11 valid Standardized Testing and Reporting test scores.

### Proposed Recommendation – Continuing Charter Schools Fiscal Year 2013–14 through 2015–16

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
50-75739-0124669	1309	Stanislaus	eCademy Charter at Crane School	2011–12	100% 5 Years	100% 3 Years	Not Available <sup>3</sup>		Not Available <sup>3</sup>	
10-62331-0124354	1311	Fresno	National University Academy - Orange Center	2011–12	100% 3 Years	100% 3 Years	Not Required*		Not Required*	

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
37-68163-0124271	1321	San Diego	Diego Valley Public Charter	2011–12	100% 4 Years	100% 3 Years	Not Required*		Not Required*	
54-71993-0124776	1329	Tulare	Loma Vista Charter School	2011–12	100% 5 Years	100% 3 Years	Not Available <sup>3</sup>		Not Available <sup>3</sup>	
10-62380-0124982	1335	Fresno	Ambassador Phillip V. Sanchez Public Charter	2011–12	100% 4 Years	100% 3 Years	Not Required*		Not Required*	
37-68452-0124917	1351	San Diego	Guajome Learning Centers	2011–12	100% 5 Years	100% 3 Years	Not Available <sup>3</sup>		Not Available <sup>3</sup>	
33-67157-0125245	1363	Riverside	Pivot Charter School Riverside County	2011–12	100% 5 Years	100% 3 Years	Not Available <sup>3</sup>		Not Available <sup>3</sup>	
04-61457-0125252	1364	Butte	Pivot Charter School North Valley	2011–12	100% 5 Years	100% 3 Years	Not Available <sup>3</sup>		Not Available <sup>3</sup>	
19-65094-0125393	1370	Los Angeles	California Virtual Academy @ Los Angeles High School	2011–12	100% 3 Years	100% 3 Years	Not Required*		Not Required*	

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
37-68403-0125401	1371	San Diego	California Virtual Academy @ Santa Ysabel	2011–12	100% 3 Years	100% 3 Years	Not Required*		Not Required*	
33-75176-0124859	1327	Riverside	Southern California Online Academy	2011–12	100% 3 Years	100% 3 Years	Not Required*		Not Required*	

\*– Not Required: Charter school request is for less than five years. *EC* Section 47612.5(d)(2) requires a determination of five years for a charter school that has achieved a rank of six or greater on the API for the two years immediately prior to receiving a determination of funding.

<sup>3</sup> – Not Available: Fiscal Year 2011-12 was charter school's first year of operation and no API base data is available.

**Proposed Recommendation – Continuing Charter Schools  
Fiscal Year 2013–14 through 2014–15**

County-District-School Code	Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2010–11		2011–12	
							API		API	
							2010 Base API	Statewide	2011 Base API	Statewide
15-63768-0124842	1337	Kern	California Pacific Charter of Kern	2011–12	100% 2 Years	100% 2 Years	Not Required*		Not Required*	

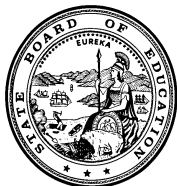
\*– Not Required: Charter school request is for less than five years. *EC* Section 47612.5(d)(2) requires a determination of five years for a charter school that has achieved a rank of six or greater on the API for the two years immediately prior to receiving a determination of funding.



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 19**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

SUBJECT	
Assignment of Numbers for Charter School Petitions.	<input checked="" type="checkbox"/> Action  <input checked="" type="checkbox"/> Information  <input type="checkbox"/> Public Hearing

#### SUMMARY OF THE ISSUE(S)

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The State Board of Education (SBE) is responsible for assigning a number to each approved charter petition. The California Department of Education (CDE) staff presents this routine request for assignment of charter numbers as a standard action item.

#### RECOMMENDATION

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The CDE recommends that the SBE assign charter numbers to the charter schools identified on the attached list.

#### BRIEF HISTORY OF KEY ISSUES

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Since the charter school law was enacted in 1992, the SBE has assigned numbers to 1,514 charter schools, including some approved by the SBE after denial by local educational agencies. Separate from that numbering system, 8 all-charter districts that currently serve a total of 18 school sites, have been jointly approved by the State Superintendent of Public Instruction and the SBE.

California *Education Code (EC)* Section 47602 requires the SBE to assign a number to each charter school that has been approved by a local entity in the chronological order in which it was received. This numbering ensures that the state stays within a statutory cap on the total number of charter schools authorized to operate. The cumulative statutory cap of the fiscal year 2012–13 is 1,650. The statutory cap is not subject to waiver.

The charter schools listed in Attachment 1 were recently approved by local boards of education as noted. Copies of the charter petitions are on file in the Charter Schools Division.



## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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The SBE is responsible for assigning a number to each approved charter petition. CDE staff presents this routine request for assignment of charter numbers as a standard action item.

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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There is no fiscal impact to the state resulting from the assignment of numbers to recently authorized charter schools.

## **ATTACHMENT(S)**

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Attachment 1: Assignment of Numbers for Charter School Petition (5 Pages)

### Assignment of Numbers for Charter School Petitions

Number	Charter Name	County	Authorizing Entity	Charter School Contact
1515	Bella Mente Montessori Charter School	San Diego	Vista Unified School District	Erin Feeley P.O. Box 1541 Rancho Santa Fe, CA 92067
1516	Summit Public School: Denali	Santa Clara	Santa Clara County Office of Education	Joseph Bielecki 455 5 <sup>th</sup> Ave Redwood City, CA 94063
1517	Health Sciences Middle School	San Diego	San Diego Unified School District	Ian Pumpian 3910 University Avenue #100 San Diego, CA 92105
1518	Acacia Elementary Charter School	San Joaquin	New Jerusalem Elementary School District	Bill Batchelor 2451 Portola Avenue Livermore, CA 94551
1519	Acacia Middle Charter School	San Joaquin	New Jerusalem Elementary School District	Bill Batchelor 2451 Portola Avenue Livermore, CA 94551
1520	Taylion High Desert Academy/ Adelanto	San Bernardino	Adelanto Elementary School District	Danielle Moore 9830 SVL Box Victorville, CA 92395
1521	Aptitud Community Academy at Goss	Santa Clara	Alum Rock Union Elementary School District	Natasha Wexler 2475 Van Winkle Lane San Jose, CA 95116
1522	Desert Trails Preparatory Academy	San Bernardino	Adelanto School District	Debra Tarver 12350 Bellflower Street Adelanto, CA 92301
1523	Two Way Bilingual Immersion	Sonoma	Santa Rosa City Schools	Anna-Maria Guzman 211 Ridgway Avenue Santa Rosa, CA 95401
1524	Stephen W. Hawking II Science, Technology, Engineering, Art, Math Charter School	San Diego	Sweetwater Union High School District	Susan Mitchell 1130 Fifth Avenue Chula Vista, CA 91911
1525	Executive Preparatory Academy of Finance	Los Angeles	Los Angeles Unified School District	Omar McGee 9663 Santa Monica Boulevard #510 Beverly Hills, CA 90210

1526	Rocketship 9 Elementary	Santa Clara	Franklin-McKinley School District	Jessica Garcia-Kohl 854 Sylvandale Avenue San Jose, CA 95111
1527	Alpha Charter School	Sacramento	Elverta Joint Elementary School District	Michael Borgaard 8920 Elwyn Avenue Elverta, CA 95626
1528	Rocklin Academy Lonetree	Placer	Newcastle Elementary School District	Phil Spears 660 Menlo Rocklin, CA 95765
1529	Squaw Valley Preparatory	Placer	Newcastle Elementary School District	Camille Taylor PO Box 5369 Tahoe City, CA 96145
1530	Alliance College-Ready Middle Academy #10	Los Angeles	Los Angeles Unified School District	Judy Burton 1940 South Figueroa Street Los Angeles, CA 90007
1531	Alliance College-Ready Middle Academy #8	Los Angeles	Los Angeles Unified School District	Judy Burton 1940 South Figueroa Street Los Angeles, CA 90007
1532	Alliance College-Ready Middle Academy #9	Los Angeles	Los Angeles Unified School District	Judy Burton 1940 South Figueroa Street Los Angeles, CA 90007
1533	Alliance College-Ready Middle Academy #12	Los Angeles	Los Angeles Unified School District	Judy Burton 1940 South Figueroa Street Los Angeles, CA 90007
1534	Urban Village Middle School	Los Angeles	Los Angeles Unified School District	Charletta Johnson 5420 Bradna Dr. Los Angeles, CA 90043
1535	Metro Charter Elementary School	Los Angeles	Los Angeles Unified School District	Simon Ha 645 West 9 <sup>th</sup> Street #227 Los Angeles, CA 90015
1536	Ingenium Charter Middle School	Los Angeles	Los Angeles Unified School District	Rachel Garfield 22250 Elkwood Street Canoga Park CA 91604

1537	Pathways Community School	Los Angeles	Los Angeles Unified School District	Dr. Erica Hamilton 1555 North Las Palmas #1 Los Angeles, CA 90028
1538	City Charter Elementary School	Los Angeles	Los Angeles Unified School District	Devora Inwood 345 South Rossmore Avenue Los Angeles, CA 90020
1539	Valor Academy Charter High School	Los Angeles	Los Angeles Unified School District	Melissa Kaplan 8755 Woodman Avenue Pacoima, CA 91331
1540	Camino Nuevo High School #2	Los Angeles	Los Angeles Unified School District	Ana Ponce 3435 West Temple Street Los Angeles, CA 90026
1541	Gateway to College Academy	Sonoma	Petaluma Joint Union High School District	David Rose 200 Douglas Street Petaluma, CA 94952
1542	Prepa Tec, Los Angeles	Los Angeles	Los Angeles Unified School District	Xavier Reyes 2410 Broadway Walnut Park, CA 90255
1543	Silver Oak High School Public Montessori Charter	Alameda	Hayward Unified School District	Murielle Bichard 951 Palisade Street Hayward, CA 94542
1544	ACE Charter Middle School: Alum Rock	Santa Clara	Alum Rock Unified Elementary School District	Gregory Lippman 1100 Shasta Avenue #250 San Jose, CA 95126
1545	ACE Charter Middle School: Franklin McKinley	Santa Clara	Franklin McKinley School District	Gregory Lippman 1100 Shasta Avenue #250 San Jose, CA 95126
1546	ACE Charter Middle School: San Jose Unified	Santa Clara	San Jose Unified School District	Gregory Lippman 1100 Shasta Avenue #250 San Jose, CA 95126
1547	Discovery Charter School II	Santa Clara	Santa Clara County Office of Education	Dale Jones 4021 Teale Ave. San Jose, CA 95117

1548	Albert Einstein Academy for Letters, Arts and Sciences- Ventura County	Ventura County	Ventura County Office of Education	Jeffrey Shapiro 25876 The Old Road #325 Stevenson Ranch, CA 91381
1549	Long Valley Charter School	Lassen	Ravendale-Termo Elementary	Cindy Henry 463-965 Susan Drive Doyle, CA 96109
1550	Aspire Titan Academy	Los Angeles	Los Angeles Unified School District	Michelle Florendo 1001 22 <sup>nd</sup> Avenue #100 Oakland, CA 94606
1551	Aspire Junior Collegiate Academy	Los Angeles	Los Angeles Unified School District	Michelle Florendo 1001 22 <sup>nd</sup> Avenue #100 Oakland, CA 94606
1552	Aspire APEX Academy	San Joaquin	Stockton Unified School District	Michelle Florendo 1001 22 <sup>nd</sup> Avenue #100 Oakland, CA 94606
1553	Aspire Port City Academy	San Joaquin	Stockton Unified School District	Michelle Florendo 1001 22 <sup>nd</sup> Avenue #100 Oakland, CA 94606
1554	Aspire Alexander Twilight College Preparatory Academy	Sacramento	San Juan Unified School District	Michelle Florendo 1001 22 <sup>nd</sup> Avenue #100 Oakland, CA 94606
1555	Aspire Alexander Twilight Secondary Academy	Sacramento	San Juan Unified School District	Michelle Florendo 1001 22 <sup>nd</sup> Avenue #100 Oakland, CA 94606
1556	Pasadena Rosebud Academy Charter Middle School	Los Angeles	Pasadena Unified School District	Shawn Brumfield 3544 North Canon Boulevard Altadena, CA 91001
1557	New Opportunities Charter School	Los Angeles	Centinela Valley Union High School District	James Tarouilly 4860 West 147 <sup>th</sup> Street Hawthorne, CA 90250
1558	Family First Charter School	Los Angeles	Centinela Valley Union High School District	James Tarouilly 4860 West 147 <sup>th</sup> Street Hawthorne, CA 90250
1559	Taylion San Diego Academy	San Diego	Vallecitos School District	Tim Smith 9830 SVL Box Victorville, CA 92395

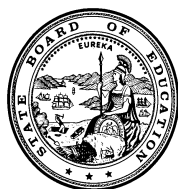
1560	Lashon Academy	Los Angeles	Los Angeles Unified School District	Josh Feigelstock 12320 Burbank Boulevard. #110 Valley Village, CA 91607
1561	Global Education Academy Middle School	Los Angeles	Los Angeles Unified School District	Craig Merrill 3801 South Broadway Los Angeles, CA 90037
1562	Extera Public School #2	Los Angeles	Los Angeles Unified School District	Dr. Kennedy 2226 East 3 <sup>rd</sup> Street Los Angeles, CA 90033
1563	Gateway International School	Sacramento	San Juan Unified School District	Dr. Petersen 5712 Dudley Boulevard McClellan, CA 95667



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 20**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### SUBJECT

Approval of 2012–13 Consolidated Applications.

- ☒ Action
- ☒ Information
- ☐ Public Hearing

#### SUMMARY OF THE ISSUE(S)

Each local educational agency (LEA) must submit a complete and accurate Consolidated Application for Funding (ConApp) each fiscal year in order for the California Department of Education (CDE) to send funding to LEAs for any or all of the categorical funds contained in the ConApp for which they are eligible. The ConApp is the annual fiscal companion to the LEA Plan. The State Board of Education (SBE) is asked to annually approve ConApps for approximately 1,600 school districts, county offices of education, and direct-funded charter schools.

#### RECOMMENDATION

The CDE recommends that the SBE approve the 2012–13 ConApps submitted by LEAs in Attachment 1.

#### BRIEF HISTORY OF KEY ISSUES

Each year, the CDE, in compliance with *California Code of Regulations, Title 5, Section 3920*, recommends that the SBE approve applications for funding Consolidated Categorical Aid Programs submitted by LEAs. Prior to receiving funding, the LEA must also have a SBE-approved LEA Plan that satisfies the SBE's and CDE's criteria for utilizing federal and state categorical funds.

Approximately \$2.9 billion of state and federal funding is distributed annually through the ConApp process. The 2012–13 ConApp consists of six federal-funded programs and only one state-funded program. The state funding source is Economic Impact Aid (which is used for State Compensatory Education and/or English learners). The federal funding sources include:



- Title I, Part A Basic Grant (Low Income);
- Title I, Part D (Delinquent);
- Title II, Part A (Teacher Quality);
- Title III, Part A (Immigrant);
- Title III, Part A (Limited English Proficient Students); and
- Title VI, Part B (Rural, Low-Income).

The CDE recommends regular approval of the 2012–13 ConApp for the 17 LEAs in Attachment 1. While the entitlement figures from school year 2012–13 are now available, prior year data is used for consistency purposes. Fiscal data are absent if an LEA is new or is applying for direct funding for the first time.

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#### **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

To date, the SBE has approved 2012–13 ConApps for 1,594 LEAs. Attachment 1 represents the fifth set of 2012–13 ConApps (17 total) presented to the SBE for approval.

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#### **FISCAL ANALYSIS (AS APPROPRIATE)**

The CDE provides resources to track the SBE approval status of the ConApps for approximately 1,600 LEAs. The cost to track the noncompliant status of LEAs related to programs within the ConApp is covered through a cost pool of federal funds and Economic Impact Aid funds. CDE staff communicates with LEA staff on an ongoing basis to determine the evidence needed to resolve issues, reviews the evidence provided by LEA staff, and maintains a tracking system to document the resolution process.

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#### **ATTACHMENT(S)**

Attachment 1: Consolidated Applications List (2012–13) - Regular Approvals (1 page)

### Consolidated Applications List (2012–13) – Regular Approvals

The following local educational agencies have submitted a correct and complete Consolidated Application (ConApp), Spring Release, and have no compliance issues or are making satisfactory progress toward resolving one or two noncompliant issues that are less than 365 days. The California Department of Education (CDE) recommends regular approval of these applications.

CDS Code	Local Educational Agency Name	Total 2011–12 ConApp Entitlement	Total 2011–12 Entitlement Per Student	Total 2011–12 Title I Entitlement	2011–12 Entitlement Per Free and Reduced Lunch Student	2011–12* Percent At or Above Proficiency - Language Arts	2011–12* Percent At or Above Proficiency - Math
19647330126078	Apple Academy Charter Public	\$0.00	\$0.00	\$0.00	\$0.00	Not Available	Not Available
39686500125849	California Connections Academy @ Ripon	\$0.00	\$0.00	\$0.00	\$0.00	Not Available	Not Available
38684786112601	Creative Arts Charter	\$0.00	\$0.00	\$0.00	\$0.00	68.7	52.3
19646000000000	Hermosa Beach City Elementary	\$127,906.00	\$98.00	\$65,895.00	\$0.00	89.7	89.3
13631230121855	Imagine Schools at Imperial Valley	\$111,459.00	\$176.00	\$106,925.00	\$0.00	20.6	24.8
01763720107839	Livermore Valley Charter	\$0.00	\$0.00	\$0.00	\$0.00	83.3	76.8
01766530120931	Livermore Valley Charter Preparatory High	\$0.00	\$0.00	\$0.00	\$0.00	62.8	67.1
19753330000000	Manhattan Beach Unified	\$266,981.00	\$40.00	\$109,285.00	\$1,265.00	91	89.4
01612593030772	Oakland School for the Arts	\$37,635.00	\$61.00	\$35,793.00	\$0.00	79.8	57.3
41689810000000	Portola Valley Elementary	\$42,079.00	\$0.00	\$0.00	\$0.00	89.9	87.7
37683120000000	Rancho Santa Fe Elementary	\$14,970.00	\$22.00	\$0.00	\$0.00	93	89.7
33672150126128	REACH Leadership Academy	\$0.00	\$0.00	\$0.00	\$0.00	Not Available	Not Available
07617960126805	Richmond Charter Academy	\$0.00	\$0.00	\$0.00	\$0.00	Not Available	Not Available
43104390125781	Rocketship Academy Brilliant Minds	\$0.00	\$0.00	\$0.00	\$0.00	Not Available	Not Available
43104390125799	Rocketship Alma Academy	\$0.00	\$0.00	\$0.00	\$0.00	Not Available	Not Available
37682130123224	San Diego Virtual	\$0.00	\$0.00	\$0.00	\$0.00	46.7	42.9
33751923330917	Temecula Preparatory	\$0.00	\$0.00	\$0.00	\$0.00	83.1	72.8

The 2011–12 targets for elementary schools, middle schools, and elementary school districts are 78.4 percent for language arts and 79 percent for math. The 2011–12 targets for high schools and high school districts (students in any grades nine through twelve only) are 77.8 percent for language arts and 77.4 percent for math. The 2011–12 targets for unified districts, high school districts (students in any of grades two through eight and nine through twelve), and county offices of education are 78 percent for language arts and 78.2 percent for math.

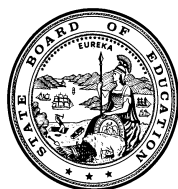
Total Number of LEAs in the report: 17  
Total ConApp entitlement funds for districts receiving regular approval: \$601,030



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 21**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

#### SUBJECT

Elementary and Secondary Education Act: Approval of Local Educational Agency Plans, Title I, Section 1112.

- ☒ Action
- ☒ Information
- ☐ Public Hearing

#### SUMMARY OF THE ISSUE(S)

The Elementary and Secondary Education Act (ESEA) provides federal funding that may be available to local educational agencies (LEAs) (defined as districts, county offices of education, and direct-funded charter schools) for a variety of programs. Currently, only nine new direct-funded charter schools submitted LEA Plans as part of the application for ESEA funding. California Department of Education (CDE) program staff review LEA Plans for compliance with the requirements of ESEA before recommending approval to the State Board of Education (SBE).

#### RECOMMENDATION

The CDE recommends that the SBE approve nine direct-funded charter school LEA Plans, listed in Attachment 1.

#### BRIEF HISTORY OF KEY ISSUES

The federal ESEA Section 1112(e)(2) states that the state educational agency (SEA) shall approve an LEA's Plan if the SEA determines that the LEA's Plan is designed to enable its schools to substantially help children meet the academic standards expected for all children. As a requirement for receiving federal funding sub-grants for ESEA programs, the local school board and the SBE must approve the original LEA Plan. Subsequent approval of revisions to LEA Plans is made by the local school board and kept on file with the original LEA Plan. The LEA Plan includes specific descriptions and assurances as outlined in the provisions included in ESEA.

The purpose of the LEA Plan is to develop an integrated, coordinated set of actions that LEAs will take to ensure that they meet certain programmatic requirements, including student academic services designed to increase student achievement and performance, coordination of services, needs assessments, consultations, school choice, supplemental services, services to homeless students, and others as required.

CDE program staff review LEA Plans for compliance with the requirements of the ESEA including evaluation of goals and activities designed to improve student performance in reading and mathematics; improve programs for English learner students; improve professional development and ensure the provision of highly qualified teachers; ensure that school environments are safe, drug-free, and conducive to learning; and promote efforts regarding graduation rates, dropout prevention, and advanced placement. If an LEA Plan lacks the required information, CDE program staff works with the LEA to ensure the necessary information is included in the LEA Plan before recommending approval.

Following initial CDE review and SBE approval, all LEAs are expected to annually review their Plans and update them as necessary. Any changes to the LEA Plan must be approved by an LEA's local governing board.

#### **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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Since the current LEA Plan process was developed in July 2003 as a requirement of the ESEA, the SBE has approved 1,679 LEA Plans.

#### **FISCAL ANALYSIS (AS APPROPRIATE)**

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There is no fiscal impact to state operations.

#### **ATTACHMENT(S)**

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Attachment 1: Direct-Funded Charter Schools Recommended for State Board of Education Approval (1 Page)

Attachment 2: Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval of Local Educational Agency Plans (4 Pages)

**Direct-Funded Charter Schools Recommended  
for State Board of Education Approval**

<b>Local Educational Agency Name</b>	<b>County-District-School Code</b>	<b>Academic Performance Data</b>
Alpha: Blanca Alvarado Middle School	43-69369-0125526	None available; opened in August 2012
Citizens of the World 2	19-64733-0126177	None available; opened in August 2012
Clayton Valley Charter High School	07-10074-0731380	See Attachment 2
CORE Butte Charter School	04-10041-0114991	See Attachment 2
Golden Lakes Charter School	55-10533-0123752	See Attachment 2
Golden Lakes Charter School @La Grange	50-71233-0127290	None available; opened in September 2012
Howard Gardner Community School	37-68023-0124321	None available; opened in August 2012
Richmond Charter Academy	07-76179-0126805	None available; opened in August 2012
Rio Valley Charter School	39-68585-0122580	See Attachment 2

**Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval  
of Local Educational Agency Plans**

LEA Name: Clayton Valley Charter High School CDS CODE: 07-10074-0731380	Met All Adequate Yearly Progress (AYP) Criteria	English-Language Arts		Mathematics		Academic Performance Index (API)		
		Percent At or Above Proficient (77.8%)	Met 2012 AYP Criteria?	Percent At or Above Proficient (77.4%)	Met 2012 AYP Criteria?	2011 Base API	2012 Growth API	Met 2011–12 Growth API Targets***
<b>Schoolwide</b>	<b>No, met 10 of 18</b>	<b>68.9</b>	<b>Yes (SH)</b>	<b>63.1</b>	<b>No</b>	<b>777</b>	<b>773</b>	<b>Yes</b>
African American or Black (not of Hispanic origin)		57.9	**	52.6	**			
American Indian or Alaska Native		**	**	**	**			
Asian		53.5	**	74.4	**			
Filipino		61.9	**	61.9	**			
Hispanic or Latino		69.8	No	56.3	No			
Native Hawaiian or Pacific Islander		**	**	**	**			
White (not of Hispanic origin)		71.9	No	65.4	No			
Two or More Races		**	**	**	**			
Socioeconomically Disadvantaged		45.5	Bi	43,4	Bi			
English Learners		16.3	**	34,7	**			
Students with Disabilities		23,5	**	26.5	**			

-- Indicates no data are available.

\*\* Indicates AYP criteria are not applied because there are too few students in this subgroup to be numerically significant.

\*\*\*Growth targets are 5 percent difference between the Base API and statewide target of 800. The 2012 API criteria for meeting federal AYP: a minimum "2012 Growth API" score of 740 OR "2011–12 Growth" of at least one point.

SH = Passed by safe harbor: The school, LEA, or student group met the criteria for safe harbor, which is an alternate method of meeting the AMO if a school, an LEA, or a student group shows progress in moving students from scoring at the below proficient level to the proficient level.

**Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval  
of Local Educational Agency Plans**

LEA Name: CORE Butte Charter School CDS CODE: 04-10041-0114991	Met All Adequate Yearly Progress (AYP) Criteria	English-Language Arts		Mathematics		Academic Performance Index (API)		
		Percent At or Above Proficient (78.4%)	Met 2012 AYP Criteria?	Percent At or Above Proficient (79.0%)	Met 2012 AYP Criteria?	2011 Base API	2012 Growth API	Met 2011–12 Growth API Targets***
<b>Schoolwide</b>	<b>No, met 14 of 16</b>	<b>60.1</b>	<b>Yes (SH)</b>	<b>52.8</b>	<b>Yes (SH)</b>	<b>785</b>	<b>787</b>	<b>Yes</b>
African American or Black (not of Hispanic origin)		**	**	**	**			
American Indian or Alaska Native		**	**	**	**			
Asian		**	**	**	**			
Filipino		--	--	--	--			
Hispanic or Latino		59.5	**	45.5	**			
Native Hawaiian or Pacific Islander		--	--	--	--			
White (not of Hispanic origin)		59.2	No	52.6	No			
Two or More Races		--	--	--	--			
Socioeconomically Disadvantaged		52.7	Yes (SH)	48.4	Yes (SH)			
English Learners		**	**	**	**			
Students with Disabilities		48.0	**	37.0	**			

-- Indicates no data are available.

\*\* Indicates AYP criteria are not applied because there are too few students in this subgroup to be numerically significant.

\*\*\*Growth targets are 5 percent difference between the Base API and statewide target of 800. The 2012 API criteria for meeting federal AYP: a minimum "2012 Growth API" score of 740 OR "2011–12 Growth" of at least one point.

SH = Passed by safe harbor: The school, LEA, or student group met the criteria for safe harbor, which is an alternate method of meeting the AMO if a school, an LEA, or a student group shows progress in moving students from scoring at the below proficient level to the proficient level.



**Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval  
of Local Educational Agency Plans**

LEA Name: Golden Lakes Charter School CDS CODE: 55-10553-0123752	Met All Adequate Yearly Progress (AYP) Criteria	English-Language Arts		Mathematics		Academic Performance Index (API)		
		Percent At or Above Proficient (77.8%)	Met 2012 AYP Criteria?	Percent At or Above Proficient (77.4%)	Met 2012 AYP Criteria?	2011 Base API	2012 Growth API	Met 2011–12 Growth API Targets***
<b>Schoolwide</b>	<b>No; met 2 of 4</b>	<b>41.5</b>	<b>No</b>	<b>41.5</b>	<b>No</b>		<b>NA†</b>	
African American or Black (not of Hispanic origin)		--	--	--	--			
American Indian or Alaska Native		**	**	**	**			
Asian		--	--	--	--			
Filipino		--	--	--	--			
Hispanic or Latino		36.4	**	18.2	**			
Native Hawaiian or Pacific Islander		--	--	--	--			
White (not of Hispanic origin)		50.0	**	54.2	**			
Two or More Races		**	**	**	**			
Socioeconomically Disadvantaged		28.0	**	20.0	**			
English Learners		--	--	--	--			
Students with Disabilities		**	**	**	**			

-- Indicates no data are available.

\*\* Indicates AYP criteria are not applied because there are too few students in this subgroup to be numerically significant.

\*\*\*Growth targets are 5 percent difference between the Base API and statewide target of 800. The 2012 API criteria for meeting federal AYP: a minimum "2012Growth API" score of 740 OR "2011–12 Growth" of at least one point

† Schools and LEAs are exempt from the API requirement for AYP if they have 50 valid fewer than scores.

**Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval  
of Local Educational Agency Plans**

LEA Name: Rio Valley Charter School CDS CODE: 39-68585-0122580	Met All Adequate Yearly Progress (AYP) Criteria	English-Language Arts		Mathematics		Academic Performance Index (API)		
		Percent At or Above Proficient (77.8%)	Met 2012 AYP Criteria?	Percent At or Above Proficient (77.4%)	Met 2012 AYP Criteria?	2011 Base API	2012 Growth API	Met 2011–12 Growth API Targets***
<b>Schoolwide</b>	<b>No, met 10 of 11</b>	<b>45.1</b>	<b>Yes (SH)</b>	<b>10.7</b>	<b>No</b>	<b>589</b>	<b>638</b>	<b>Yes</b>
African American or Black (not of Hispanic origin)		**	**	**	**			
American Indian or Alaska Native		--	--	--	--			
Asian		--	--	--	--			
Filipino		--	--	--	--			
Hispanic or Latino		33.3	**	0.0	**			
Native Hawaiian or Pacific Islander		--	--	--	--			
White (not of Hispanic origin)		55.6	**	19.1	**			
Two or More Races		**	**	**	**			
Socioeconomically Disadvantaged		36.6	**	7.0	**			
English Learners		**	**	**	**			
Students with Disabilities		**	**	**	**			

-- Indicates no data are available.

\*\* Indicates AYP criteria are not applied because there are too few students in this subgroup to be numerically significant.

\*\*\*Growth targets are 5 percent difference between the Base API and statewide target of 800. The 2012 API criteria for meeting federal AYP: a minimum "2012 Growth API" score of 740 OR "2011–12 Growth" of at least one point.

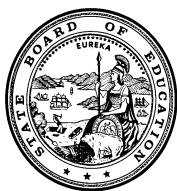
SH = Passed by safe harbor: The school, LEA, or student group met the criteria for safe harbor, which is an alternate method of meeting the AMO if a school, an LEA, or a student group shows progress in moving students from scoring at the below proficient level to the proficient level.



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 22**



## CALIFORNIA STATE BOARD OF EDUCATION

### May 2013 AGENDA

#### SUBJECT

Elementary and Secondary Education Act: School Improvement Grant: Request for a Tydings Amendment Waiver for Federal Fiscal Year 2010; Federal Fiscal Year 2011 Funds and Carryover Limitation Waiver for Federal Fiscal Year 2012.

- ☒ Action
- ☒ Information
- ☐ Public Hearing

#### SUMMARY OF THE ISSUE(S)

##### Tydings Amendment Waiver

California delayed initial implementation of its School Improvement Grant (SIG) Cohort 2 until the 2012–13 school year (SY) by requesting a waiver from the U.S. Department of Education (ED) to carry over 100 percent of federal fiscal year (FY) 2010 into the subsequent year. Currently, FY 2010 funds are available for obligation by the state and its local educational agencies (LEAs) until September 30, 2013. The delayed implementation of California's SIG Cohort 2 effectively resulted in a decrease in the availability of funds to the Cohort 2 LEAs from the usual 27 months to 15 months. Some excess funds may be available at the conclusion of the first year of implementation based on the fact that, as of April 1, 2013, California SIG Cohort 2 LEAs have expended approximately \$23 million of the approximately \$66 million awarded for FY 2010. This circumstance will result in pressure to spend funds more quickly than may be prudent or in returning unspent funds to the ED. The delayed implementation of California's SIG Cohort 2 will have a corresponding effect on FY 2011 funds that are due to expire on September 30, 2014.

##### Carryover Limitation Waiver

Section 1127(b) of the Elementary and Secondary Education Act of 1965 (ESEA) prohibits a state educational agency (SEA) from granting to an LEA a waiver of the carryover limitation in Section 1127(a) of the ESEA more than once every three years. The SEA may waive the carryover limitation in Section 1127(a) once every three years if: (1) the LEA's request is reasonable and necessary; or (2) a supplemental Title I, Part A appropriation becomes available.

Due to the federal budget sequestration and the resultant uncertainty about the amount of federal FY 2013 Title I, Part A funds that will be available for use by LEAs primarily in the 2013–2014 school year, ED has invited SEAs to request a waiver to permit an LEA to carry over FY 2012 Title I, Part A funds in excess of the carryover limitation.

## **RECOMMENDATION**

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### **Tydings Amendment Waiver**

The California Department of Education (CDE) recommends that the State Board of Education (SBE) authorize SBE President Michael W. Kirst, in consultation with State Superintendent of Public Instruction (SSPI) Tom Torlakson, to approve California's request to the ED for a waiver of Section 421(b) of the General Education Provisions Act (the "Tydings Amendment") as it affects the authority of California and its sub-recipients to obligate federal FY 2010 and FY 2011 SIG funds until September 30, 2014, and September 30, 2015, respectively.

### **Carryover Limitation Waiver**

The CDE recommends that the SBE authorize SBE President Michael W. Kirst, in consultation with SSPI Tom Torlakson, to approve California's request to the ED for a waiver of Section 1127(b) of the ESEA that prohibits an SEA from granting to an LEA a waiver of the carryover limitation in Section 1127(a) of the ESEA more than once every three years.

## **BRIEF HISTORY OF KEY ISSUES**

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### **Tydings Amendment Waiver**

California has been awarded approximately \$69 million in SIG funds for FY 2010 and approximately \$63 million in SIG funds for FY 2011. Currently, FY 2010 SIG funds are available for obligation until September 30, 2013; and FY 2011 SIG funds are available for obligation until September 30, 2014.

### **Carryover Limitation Waiver**

The CDE receives approximately 50 requests annually to grant a waiver of the 15 percent carryover limitation and generally all are approved. Typically, an LEA may request this waiver only once in any three-year period.

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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### **Tydings Amendment Waiver**

At its March 2013 meeting, the SBE authorized SBE President Michael W. Kirst, in consultation with SSPI Tom Torlakson, to approve Year 2 sub-grants for Cohort 2 SIG LEAs, with funding contingent on the LEA submitting a complete Renewal Application indicating progress in meeting annual goals established by the LEA for student achievement in reading/language arts and mathematics or making progress on the leading indicators described in Section III of the ED SIG Final Requirements.

Also at its March 2013 meeting, the SBE authorized the SBE President or designated liaison, along with the SSPI, to submit California's "Continuation Awards Only Application for FY 2012 SIG Program" to the ED.

### **Carryover Limitation Waiver**

In 2009, ED invited SEAs to request a similar waiver of the carryover limitation because of the large one-time infusion of Title I, Part A funds to the LEAs as a result of the American Recovery and Reinvestment Act of 2009.

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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### **Tydings Amendment Waiver**

SIG funds provide LEAs with grants ranging from \$50,000 to \$2 million per year per school for up to three years. California has been awarded approximately \$69 million in SIG funds for FY 2010 and approximately \$63 million in SIG funds for FY 2011. Currently, FY 2010 SIG funds are available for obligation until September 30, 2013; and FY 2011 SIG funds are available for obligation until September 30, 2014.

### **Carryover Limitation Waiver**

There is no fiscal impact to the state. If granted, the waiver will provide greater flexibility to LEAs in planning for funding cuts that may result from federal sequestration.

### **ATTACHMENT(S)**

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Attachment 1: DRAFT May 8, 2013, joint letter from Tom Torlakson, State Superintendent of Public Instruction, California Department of Education, and Michael W. Kirst, President, California State Board of Education, to Deborah Delisle, Assistant Secretary, Office of Elementary and Secondary Education, U.S. Department of Education, requesting a Tydings Amendment Waiver for federal fiscal year (FY) 2010 and FY 2011 School Improvement Grant funds (2 Pages)

Attachment 2: DRAFT May 8, 2013, joint letter from Tom Torlakson, State Superintendent of Public Instruction, California Department of Education, and Michael W. Kirst, President, California State Board of Education, to Deborah Delisle, Assistant Secretary, Office of Elementary and Secondary Education, U.S. Department of Education, requesting a Carryover Limitation Waiver for federal fiscal year 2012 (2 Pages)



**CALIFORNIA DEPARTMENT OF EDUCATION**  
**TOM TORLAKSON**, State Superintendent of Public Instruction  
916-319-0800



**CALIFORNIA STATE BOARD OF EDUCATION**  
**MICHAEL W. KIRST**, President  
916-319-0827

DRAFT May 8, 2013

Deborah Delisle, Assistant Secretary  
Office of Elementary and Secondary Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Dear Assistant Secretary Delisle:

The State of California hereby submits for your consideration a request to waive Section 421(b) of the General Education Provisions Act (the "Tydings Amendment") to extend the authority of California and its sub-recipients to obligate federal fiscal year (FY) 2010 and FY 2011 School Improvement Grant (SIG) funds until September 30, 2014, and September 30, 2015, respectively. Currently, FY 2010 SIG funds expire September 30, 2013; and FY 2011 SIG funds expire September 30, 2014.

The State is requesting this waiver because the delayed implementation of California's SIG Cohort 2 resulted in a decrease from the normal 27-month period of funding availability for local educational agencies (LEAs) to 15 months. We anticipate a significant amount of excess funds may be available at the conclusion of the first year of implementation based on Cohort 2 expenditure reporting data to date.

The extended authority to obligate these funds would enable the State and its sub-recipients to increase the quality of instruction for students, improve their academic achievement, and continue to assist the same populations served by the SIG program for which this waiver is being requested in accordance with all program requirements.

The State assures that if it receives the requested waiver, it will:

- Determine whether an LEA with an excess amount of SIG funds at the end of each year is implementing the model consistent with its approved application and budget

Deborah Delisle, Assistant Secretary  
DRAFT May 8, 2013  
Page 2

- Determine which funds are allowed to be carried over based on the reason for the surplus and whether the LEA's proposed use of the funds directly supports implementation of the approved SIG model in each school
- Ensure that sub-recipients within the State use FY 2010 and FY 2011 funds carried over as a result of the waiver to carry out activities in accordance with program requirements
- Hold LEAs and schools accountable based on the State's annual measurable objectives

The State also assures that it provided all schools in the State that are eligible to receive a SIG grant, as well as the public, with notice and a reasonable opportunity to comment on this request and has attached a copy of that notice. (See Enclosure.) This notice was made available to the public in the manner in which the State customarily provides such notice and information to the public (i.e., by posting information on its Web site) and can be found on the SBE Meeting for May 2013 Web page at <http://www.cde.ca.gov/be/ag/ag/>. The State received public comments regarding this issue.

If you have any questions regarding this subject, please contact Deborah V.H. Sigman, Deputy Superintendent, District, School, and Innovation Branch, by phone at 916-319-0812 or by email at [dsigman@cde.ca.gov](mailto:dsigman@cde.ca.gov).

Sincerely,

Tom Torlakson  
State Superintendent of Public Instruction  
California Department of Education

Michael W. Kirst  
President  
California State Board of Education

TT/MK:cp  
Enclosure





**CALIFORNIA DEPARTMENT OF EDUCATION**  
**TOM TORLAKSON**, State Superintendent of Public Instruction  
916-319-0800



**CALIFORNIA STATE BOARD OF EDUCATION**  
**MICHAEL W. KIRST**, President  
916-319-0827

DRAFT May 8, 2013

Deborah Delisle, Assistant Secretary  
Office of Elementary and Secondary Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Dear Assistant Secretary Delisle:

We are writing to request a waiver of the limitation in Section 1127(b) of the Elementary and Secondary Education Act of 1965 (ESEA) that prohibits a state educational agency (SEA) from granting to a local educational agency (LEA) a waiver of the carryover limitation in Section 1127(a) of the ESEA more than once every three years. Section 1127(b) permits an SEA to waive the limitation in Section 1127(a) once every three years if: (1) the LEA's request is reasonable and necessary; or (2) a supplemental Title I, Part A appropriation becomes available. In accordance with these provisions, we are requesting a waiver to allow California to waive the carryover limitation more than once every three years for an LEA that needs the additional waiver because it would be reasonable and necessary due to the sequester, which has resulted in additional uncertainty about the amount of federal fiscal year (FY) 2013 Title I, Part A funds that will be available for use by LEAs primarily in the 2013–2014 school year. We are requesting this waiver to permit an LEA to carry over FY 2012 Title I, Part A funds in excess of the carryover limitation.

We believe that the requested waiver will provide California with the ability to grant an LEA the flexibility it needs to spend its FY 2012 Title I, Part A funds thoughtfully over the remainder of this year and next year on activities that are most likely to increase the quality of instruction and improve the academic achievement of students in the face of a likely reduction in its FY 2013 Title I, Part A allocation. Accordingly, we believe that the requested waiver may help more schools and LEAs within the state meet their annual measurable objectives (AMOs) by enabling them to direct their funds to activities that will serve this purpose.

California will ensure that an LEA requesting a waiver of the carryover limitation stated in Section 1127 of ESEA that has already received such a waiver in one of the

Deborah Delisle, Assistant Secretary  
DRAFT May 8, 2013  
Page 2

previous two years will be allowed to request a waiver of the 15 percent carryover limit for the FY 2012 allocation. LEAs may request such a waiver in accordance with California's regular procedures for waivers of the carryover limitation. California hereby assures that it will grant the requested waiver for the second time within three years only to an LEA that requests a waiver because of the sequester. Further, California assures that it will use its AMOs, pursuant to ESEA Section 1111(b)(2), to evaluate the LEAs' progress in increasing the quality of instruction and improving academic achievement.

California assures that it provided all LEAs in the State, as well as the public, with notice and a reasonable opportunity to comment on this request and has attached a copy of that notice. (See Enclosure.) This notice, and information regarding this waiver request, was made available to the public in the manner in which the State customarily provides such notice and information to the public (i.e., by posting information on its Web site) and can be found on the State Board of Education Meeting for May 2013 Web page at <http://cde.ca.gov/be/ag/ag>. The State received public comments regarding this issue.

If you have any questions regarding this subject, please contact Deborah V.H. Sigman, Deputy Superintendent, District, School, and Innovation Branch, by phone at 916-319-0812 or by e-mail at [dsigman@cde.ca.gov](mailto:dsigman@cde.ca.gov).

Sincerely,

Tom Torlakson  
State Superintendent of Public Instruction  
California Department of Education

Michael W. Kirst  
President  
California State Board of Education

TT/MK:cp  
Enclosure



# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 23**



## CALIFORNIA STATE BOARD OF EDUCATION

### MAY 2013 AGENDA

SUBJECT	
Elementary and Secondary Education Act: Supplemental Educational Services Providers: Approval of Additional Providers to the 2013–15 State Board of Education-Approved Supplemental Educational Services Provider List Based on Appeal, Including Local Educational Agencies Identified for Improvement Based on a Waiver Granted by the U.S. Department of Education Under the Elementary and Secondary Education Act, Section 9401.	<input checked="" type="checkbox"/> Action <input checked="" type="checkbox"/> Information <input type="checkbox"/> Public Hearing

#### SUMMARY OF THE ISSUE(S)

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##### Supplemental Educational Services

Section 1116(e)(4)(C) of the Elementary and Secondary Education Act (ESEA) requires the state educational agency (SEA) to develop and maintain a list of approved Supplemental Educational Services (SES) providers to provide services to eligible students. The 34 *Code of Federal Regulations* (34 *CFR*), Section 200.47(b)(1)(iv)(A) and (B) prohibits an SEA from approving local educational agencies (LEAs) identified for improvement or corrective action as providers of SES; however, the SEA may request a waiver of these provisions. A waiver was granted by the U.S. Department of Education (ED) on August 17, 2012, and remains in effect through June 30, 2014.

#### RECOMMENDATION

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##### Supplemental Educational Services Providers Approval

The California Department of Education (CDE) recommends the State Board of Education (SBE) approve SES providers on appeal from the 2013 SES Request for Applications (RFA) for a two-year period beginning July 1, 2013, through June 30, 2015. The 2013 SES RFA is based on the final adopted *California Code of Regulations*, Title 5 (5 *CCR*), Section 13075.2. The summary list of providers recommended for approval is provided as Attachment 1. The summary list of LEAs identified for improvement and recommended for approval until June 30, 2014, is provided as Attachment 2.

## **BRIEF HISTORY OF KEY ISSUES**

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### **Supplemental Educational Services Providers Approval**

Title I, Part A Section 1116(e)(1) and (4) of the ESEA requires that an SES provider be approved by the SBE before it can offer tutoring services to low-income students in schools advancing to Program Improvement (PI) Year 2 and beyond. The CDE has been responsible for annually establishing and maintaining a list of SBE-approved SES providers, as described in Section 1116(e)(4) of the ESEA, beginning with the SBE approval of the first cohort at the June 2003 SBE meeting.

### **Local Educational Agency Eligibility to Apply as SES Providers**

Title I regulations currently preclude LEAs identified for improvement from serving as SES providers. A regulatory waiver of 34 *CFR* Section 200.47(b)(1)(iv)(A) and (B) would allow all interested LEAs identified for improvement or corrective action to apply to serve as SES providers. California currently has a waiver of these provisions that remains in effect through June 30, 2014.

The SEA that receives these waivers must provide information to the ED by September 30, 2013, that sets forth the name and National Center for Education Statistics District Identification Number for each LEA implementing the waivers.

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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At its January 2013 meeting, the SBE removed SES providers for failure to meet the 2011–12 Accountability Report requirements as defined in 5 *CCR*, Section 13075.4. The SBE approved providers at its March 2013 meeting for a two-year period to begin services July 1, 2013, through June 30, 2015; and also approved LEAs identified for improvement to provide services from July 1, 2013, through June 30, 2014, based on a granted waiver.

In January, March, July, and November of 2012, the SBE took action to approve SES providers. At its September 2012 meeting, the SBE removed two providers for failure to meet compliance requirements as defined in 5 *CCR*, Section 13075.5(d)(3)(C).

At its May 2011 meeting, the SBE approved 161 providers out of 209 applicants to serve as SES providers from July 1, 2011, through June 30, 2013. The SBE also authorized the CDE to request a waiver of 34 *CFR* Section 200.47(b)(1)(iv)(A) and (B) to allow PI LEAs to serve as providers for the 2011–13 school years.

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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There is no fiscal impact to the state.

## **ATTACHMENT(S)**

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- Attachment 1: California Department of Education Recommended 2013–15 Supplemental Educational Services Additional Provider Applicant List Based on Appeal (1 Page)
- Attachment 2: California Department of Education Recommended 2013–15 Local Educational Agencies Identified for Improvement Supplemental Educational Services Additional Provider Applicant List Based on Appeal (1 Page)

**California Department of Education Recommended 2013–15  
Supplemental Educational Services Additional Provider Applicant List  
Based on Appeal**

<b>Provider Name</b>	<b>English- Language Arts</b>	<b>Mathematics</b>	<b>Science</b>	<b>English Learners</b>	<b>Students with Disabilities</b>	<b>Online</b>	<b>Type of Entity</b>
iAprendel! Tutoring	X	X		X	X		For Profit Agency
Community College Foundation	X	X		X	X		Non Profit Agency
Studentnest, Inc. (dba: studentnest.com)		X		X	X	X	For Profit Agency
World Literacy Crusade	X	X		X	X		Non Profit Agency

**California Department of Education Recommended 2013–15 Local Educational  
Agencies Identified for Improvement Supplemental Educational Services  
Additional Provider Applicant List Based on Appeal**

<b>Provider Name</b>	<b>English- Language Arts</b>	<b>Mathematics</b>	<b>Science</b>	<b>English Learners</b>	<b>Students with Disabilities</b>	<b>Online</b>	<b>Type of Entity</b>
Baldwin Park Unified School District	X	X		X	X		LEA in Program Improvement
Kern County Superintendent of Schools	X			X	X		County Office of Education

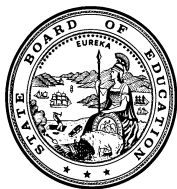




# **California State Board of Education**

**Meeting Agenda Items for May 8-9, 2013**

## **ITEM 24**



## CALIFORNIA STATE BOARD OF EDUCATION

### May 2013 AGENDA

#### SUBJECT

Request by **Chula Vista Elementary School District** regarding California *Education Code* sections 17515 through 17526, Joint Public/Private Occupancy Proposal, allowing the Chula Vista Elementary School District and South Bay Family Young Men's Christian Association (YMCA) to enter into leases and agreements relating to real property and buildings to be used jointly by the district and the South Bay Family YMCA.

- ☒ Action
- ☒ Information
- ☐ Public Hearing

#### SUMMARY OF THE ISSUE(S)

California *Education Code* (EC) 17524(a) specifies the governing board of a school district shall not approve any joint occupancy proposal nor enter into a lease or contract incorporating a proposal until the governing board has submitted the proposal to the State Board of Education (SBE) for its approval or disapproval.

Upon receiving approval from the SBE, the district will enter into negotiations with the South Bay Family Young Men's Christian Association (YMCA) regarding the specific terms of the joint occupancy agreement. The district has indicated that any such agreement will contain restricted district use hours along with a physical barrier from the school facilities, requirements regarding liability insurance, and be in accordance with all legal requirements.

#### RECOMMENDATION

The California Department of Education (CDE) recommends that the SBE approve the Chula Vista Elementary School District's proposal to enter into a joint occupancy agreement with South Bay Family YMCA to develop a community recreation facility at Enrique S. Camarena Elementary School.

#### BRIEF HISTORY OF KEY ISSUES

California *EC* Section 17515 allows a school district to enter into a joint occupancy agreement providing certain requirements are met and pursuant to *EC* Section 17517 the agreement does not exceed 66 years. A joint occupancy agreement allows the district and a private or public party to jointly develop and operate buildings on district owned property.

Pursuant to *EC* sections 17521 et seq., the district governing board issued a Request for Proposals (RFP) on August 14, 2012. Only one proposal was received.

The joint occupancy agreement is between the Chula Vista Elementary School District and the South Bay Family YMCA. The proposal includes the development of a covered multi-sports/soccer arena pavilion with a playfield, office, restrooms, storage, and parking lot. The proposed community recreation facility will be constructed on 3.27 acres of the Enrique S. Camarena Elementary School. The facilities and fields will be available for use by students, district employees, and the community. The improvements shall be used primarily for recreational, educational, and social programs and services.

### **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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The SBE has approved several joint occupancy agreements with the Los Angeles Unified School District and various partners. In March 2012 the SBE approved a joint occupancy agreement with the San Diego Unified School District and the Peninsula YMCA, in May 2012 a joint occupancy agreement between Napa Valley Unified School District and Napa Valley College was approved, and most recently, in January 2013, an agreement between the Chula Vista Elementary School District and the South Bay YMCA was approved.

### **FISCAL ANALYSIS (AS APPROPRIATE)**

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There is no state fiscal impact.

### **ATTACHMENT(S)**

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Attachment 1: Proposal for Joint Occupancy between Chula Vista Elementary School District and the South Bay Family YMCA for a community recreation facility at Enrique S. Camarena Elementary School. (5 pages)

Attachment 2: Chula Vista Elementary School District Resolution of Intent to Lease Real Property for Joint Use of a Community Recreation Facility at Enrique S. Camarena Elementary School. (4 pages)

Attachment 3: Joint Occupancy Lease and Development Agreement. (48 pages)



**FOR YOUTH DEVELOPMENT®  
FOR HEALTHY LIVING  
FOR SOCIAL RESPONSIBILITY**

November 13, 2012

Dr. Francisco Escobedo  
Superintendent  
Chula Vista Elementary School District  
84 East J Street  
Chula Vista, CA 91910

CHULA VISTA ELEMENTARY  
SCHOOL DISTRICT

Nov. 13 2012

SUPERINTENDENT'S OFFICE

Dear Dr. Escobedo:

On behalf of the YMCA of San Diego County-South Bay Family YMCA, please accept the attached proposal for the use of property located at Enrique S. Camarena Elementary School, 1650 Exploration Falls, Chula Vista, CA 91915.

The YMCA proposes to develop the property with a YMCA Soccer Pavilion and programs which focus on Youth Development, Healthy Living and Social Responsibility. The impact of the Y sports facility and programs will strengthen the foundations of the community surrounding the new school.

We look forward to hearing from you soon.

Sincerely,

Tina Williams  
Executive Director

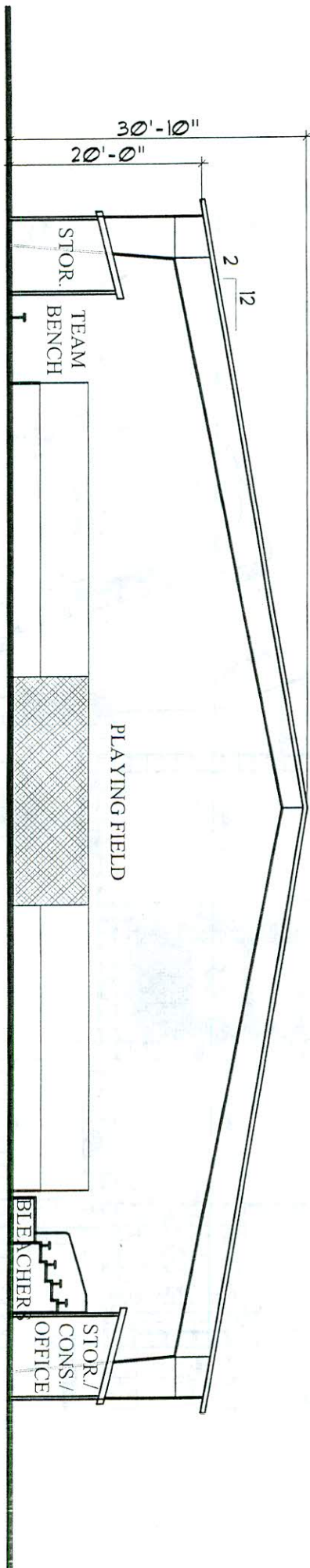
CHULA VISTA ELEMENTARY  
SCHOOL DISTRICT

NOV 14 2012

SUPERINTENDENT'S OFFICE

Proposal for Ground Lease  
1650 Exploration Falls Drive  
Chula Vista, CA 91910

1. Landlord: Chula Vista Elementary School District
2. Tenant: YMCA of San Diego County, a California non-profit public benefit corporation.
3. Premises: Land located at Enrique S. Camarena Elementary School, 1650 Exploration Falls Drive, Chula Vista, CA 91915.
4. Use: The YMCA proposes to construct the following improvements and related amenities for the purpose of providing recreational, educational and social programs and services intended to benefit the District and Community and for any other uses needed in the community, typically provided by the tenant and acceptable to the landlord. (See attached draft site plan)
  - Multi-Sports Pavilion – a covered sports pavilion featuring a soccer arena with artificial turf, lighting, restrooms, office space and concession area.
5. Lease Term: Thirty (30) Calendar years with an option to extend for an additional Thirty (30) years.
6. Rent: Tenant shall pay Landlord as "rent" the amount of \$1.00 payable on an annual basis on each anniversary of the effective date.
7. Funding: The proposed project received a grant from the Community Sports Development Council which will provide the pavilion, soccer arena, turf, and lighting. Additional funding will be required to complete the entire project. The YMCA will conduct a Capital Campaign to raise sufficient additional funds to complete the project.



PRELIMINARY  
SECTION

COVERED SPORTS FACILITY



NOVEMBER 28, 2012

CAMARENA ELEMENTRY SCHOOL  
CHULAVISTA, CALIFORNIA

**COMMUNITY SPORTS  
DEVELOPMENT COUNCIL**

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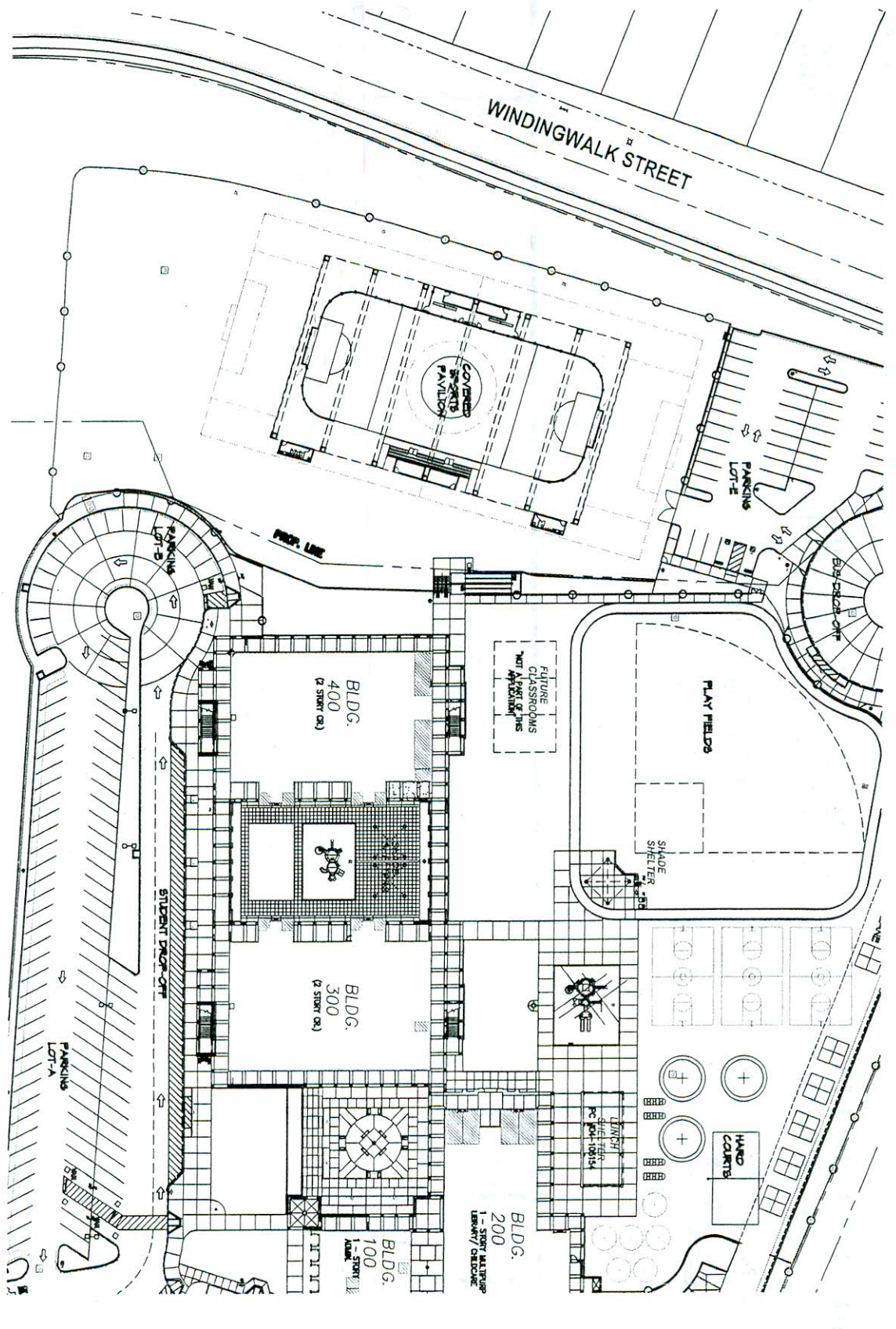
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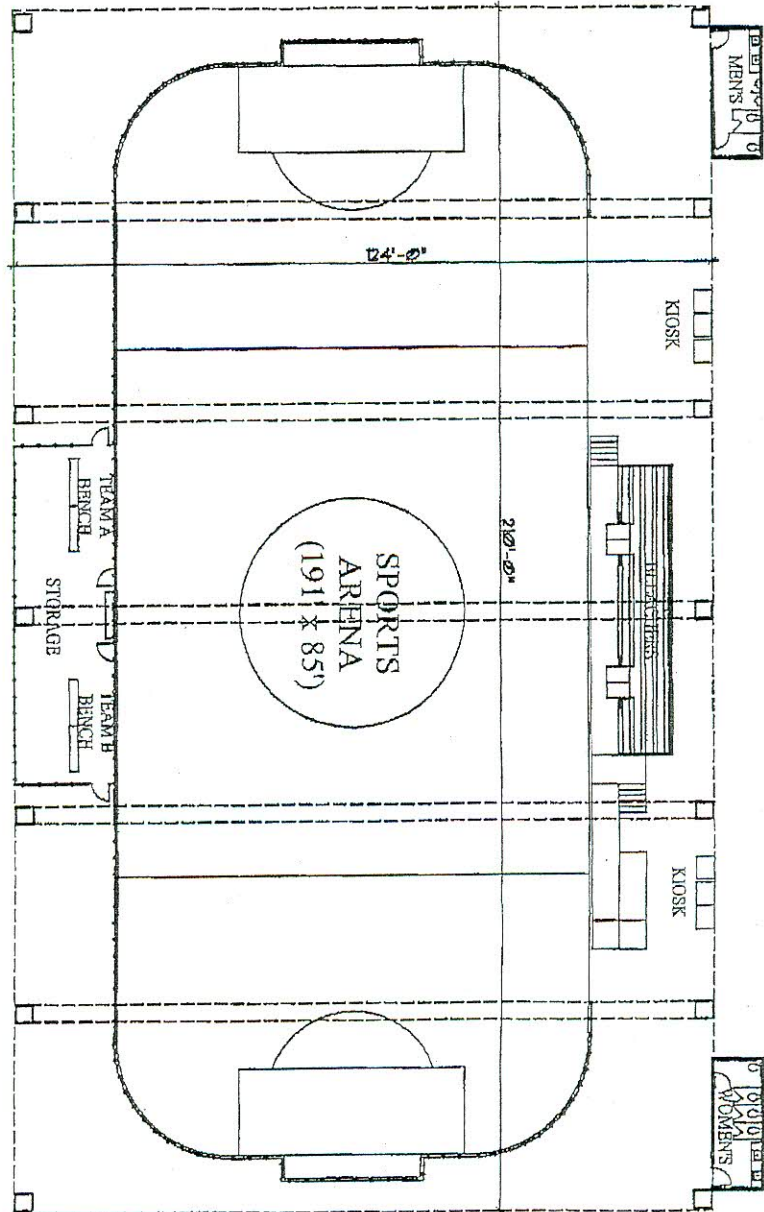
CAMARENA ELEMENTARY SCHOOL  
CHULAVISTA, CALIFORNIA

COMMUNITY SPORTS  
DEVELOPMENT COUNCIL

PRELIMINARY  
SITE PLAN  
COVERED SPORTS FACILITY

NOVEMBER 28, 2012





**PRELIMINARY  
FLOOR PLAN**

**COVERED SPORTS FACILITY**

**COMMUNITY SPORTS  
DEVELOPMENT COUNCIL**

NOVEMBER 6, 2012



D B A

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503.341.4445 davidb@dbarch.com

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## AAV of SBE Item 24 Attachment 1

Accessible Alternative Version (AAV) of Item 24 Attachment 1 from the May 2013 SBE Meeting Agenda.

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This page is the Accessible Alternative Version (AAV) of Item 24 Attachment 1 from the [California State Board of Education \(SBE\) Meeting Agenda for May 2013](#). The scanned [Item 24 Attachment 1](#) (PDF) version which also includes graphics is considered to be the official version of the document.

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*FOR YOUTH DEVELOPMENT  
FOR HEALTHY LIVING  
FOR SOCIAL RESPONSIBILITY*

November 13, 2012

Dr. Francisco Escobedo  
Superintendent  
Chula Vista Elementary School District  
84 East J Street  
Chula Vista, CA 91910

Dear Dr. Escobedo:

On behalf of the YMCA of San Diego County-South Bay Family YMCA, please accept the attached proposal for the use of property located at Enrique S. Camarena Elementary School, 1650 Exploration Falls, Chula Vista, CA 91915.

The YMCA proposes to develop the property with a YMCA Soccer Pavilion and programs which focus on Youth Development, Healthy Living and Social Responsibility. The impact of the Y sports facility and programs will strengthen the foundations of the community surrounding the new school.

We look forward to hearing from you soon.

Sincerely,

Tina Williams  
Executive Director

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### Proposal for Ground Lease

**1650 Exploration Falls Drive  
Chula Vista, CA 91910**

1. Landlord: Chula Vista Elementary School District
  2. Tenant: YMCA of San Diego County, a California non-profit public benefit corporation.
  3. Premises: Land located at Enrique S. Camarena Elementary School, 1650 Exploration Falls Drive, Chula Vista, CA 91915.
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    - o Multi-Sports Pavilion – a covered sports pavilion featuring a soccer arena with artificial turf, lighting, restrooms, office space and concession area.
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- 

The following graphics or illustrations are included in the official version of [Item 24 Attachment 1](#) (PDF):

- Preliminary section drawing of the covered sports facility for the Chula Vista Elementary School District joint occupancy with the YMCA on Page 3.

- Preliminary site plan of the covered sports facility for a joint occupancy agreement between Chula Vista Elementary School District and the YMCA on Page 4.
  - Preliminary floor plan of the covered sports facility for the joint occupancy agreement with the Chula Vista Elementary School District and the YMCA on Page 5.
- 

**SOUTH BAY FAMILY YMCA**

1201 Paseo Magda, Chula Vista, CA 91910

Phone 619-421-9622, Fax 619-421-8012, [South Bay Family YMCA Web site](http://www.southbay.ymca.org/) [http://www.southbay.ymca.org/] 

Questions: State Board of Education | 916-319-0827

Last Reviewed: Friday, April 26, 2013

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California Department of Education

[Mobile site](#) | [Full site](#)

**CHULA VISTA ELEMENTARY SCHOOL DISTRICT**

**RESOLUTION NO. 2012-13.14**

Resolution of Intent to Lease Real Property       )  
for Joint Use of a Community Recreation Facility)  
at Enrique S. Camarena Elementary School       )

On motion of Member CUNNINGHAM, seconded by Member BEJARANO,  
the following resolution is adopted:

WHEREAS, California Education Code Section 17515, et seq., authorizes school districts to enter into joint occupancy leases and agreements with private persons, firms, or corporations for the purpose of jointly occupying real property upon terms and conditions as the parties thereto may agree, provided that the agreement does not exceed sixty-six (66) years; and

WHEREAS, the governing board of a school district may let real property that belongs to the district if the instrument by which the property is let requires the lessee therein to construct on the demised premises or provide for the construction thereon of a building or buildings for the joint use of the school district and the lessee during the term of the agreement; and

WHEREAS, the Chula Vista Elementary School District ("District") is the owner of that certain real property located at 1650 Exploration Falls Drive, Chula Vista, California 91915, commonly known as the Enrique S. Camarena Elementary School; and

WHEREAS, it is the intention of the District to consider proposals for the lease and private development of approximately a 3.27-acre portion of Camarena Elementary School property for construction and operation of a covered multi-sports/soccer arena pavilion with playfield, office, restrooms, storage, and parking lot to be jointly used by the District, the area of which is depicted and more particularly described on Exhibit "A," attached hereto and incorporated herein by this reference (the "Premises"); and

WHEREAS, the Board of Education has duly considered the proposed joint use and lease of said Premises and intends to lease said Premises for that purpose for a term of thirty (30) years with improvements as determined by the District; and

WHEREAS, the proposed development will include the improvements and offer the programs and services outlined as follows:

Construction of Improvements. Lessee will, at its sole cost and expense, cause the construction of the following improvements, facilities, and related amenities (the "Improvements"):

A covered multi-sports/soccer arena pavilion with playfield, office, restrooms, storage, and parking lot that will include the Improvements with general dimensions and square footage as follows:

Brief Description	Approximate Area (Square Feet)
Playfield (2.83 Acres)	
Soccer Arena Pavilion 200 ft. x 85ft. = 17,000 sq. ft.)	123,302
Parking Lot (.44 Acre)	19,085
<b>TOTAL (3.27 Acres)</b>	<b>142,387</b>

The Improvements shall be used primarily for recreational, educational, and social programs and services intended to benefit the District and the community, typically provided by Lessee, appropriate for the Improvements constructed and acceptable to the District. The District shall be allowed to make use of the Premises and the Improvements during the term of the proposed lease in the following manner:

a. Exclusive Use of Improvements. The District will have exclusive use of the Improvements during the regular school day. There shall be no charge or fees for such use. Lessee will have use of the facility in the evenings, on weekends, and during school breaks in coordination with the needs of the District.

b. Reserved Use. In addition to the Exclusive Use reserved to the District above, the District and Lessee may agree on dates and times for District students and/or employees designated by District and agreed to by Lessee to reserve the use of the facilities during hours of non-operation by the Lessee at the charge and upon the conditions agreed upon by Lessee and District.

c. Shared Use. District's staff, students, and invitees may use the Improvements and/or participate in offered at rates, including flat rates and/or group rates, and pursuant to any conditions agreed upon by District and Lessee.

WHEREAS, the lease amount, which will be payable to the District or to the District's designee, will be determined as a result of the proposals received; and

WHEREAS, the District will require the entity with whom it enters into a lease to file a bond for the performance of the lease or an irrevocable letter of credit to ensure the performance of the lease; and

WHEREAS, the Board of Education hereby determines that the joint use occupancy and use of the Premises for the above-stated purposes will not (a) interfere with the educational program or activities of any school or class conducted upon the real property or in any building; (b) unduly disrupt the residents of the surrounding neighborhood; or (c) jeopardize the safety of the children of the District; and

WHEREAS, the Board of Education intends to give notice of adoption of this resolution and the time and place of holding the meeting by publishing the resolution at least once a week for three weeks in a newspaper of general circulation published in the District; and

WHEREAS, the Board of Education will hold a public hearing at its November 2012 regular meeting at which time sealed proposals to lease and develop the Premises will be received and considered; and

WHEREAS, the District reserves the right to reject all proposals and to withdraw the real property from lease.


NOW THEREFORE, BE IT DETERMINED AND RESOLVED by this Board of Education of the Chula Vista Elementary School District as follows:

Section 1. The above recitals are true and correct.

Section 2. This Board authorizes and directs the Superintendent to give notice of adoption of this resolution and the time and place of holding the public hearing by publishing the resolution at least once a week for three weeks in a newspaper of general circulation published in the District.

Section 3. This Board authorizes and directs the Superintendent or his designee to execute any and all documents and papers and to perform and do any and all acts and things deemed necessary or convenient in order to effect the purposes of this resolution.

Section 4. This resolution shall take effect from and after its adoption.

  
Secretary to the Board of Education

## JOINT OCCUPANCY LEASE AND DEVELOPMENT AGREEMENT

This JOINT OCCUPANCY LEASE AND DEVELOPMENT AGREEMENT (this "Lease") by and between the CHULA VISTA ELEMENTARY SCHOOL DISTRICT, a school district organized and existing pursuant to the California Education Code ("Landlord" and, sometimes referred to herein as, "District"), and YMCA OF SAN DIEGO COUNTY, a California non-profit public benefit corporation ("Tenant") as of, and contingent upon the date of California State Board of Education approval of the below described Project ("Effective Date"), with respect to the following facts:

### I. Recitals.

A. Landlord, a California school district, is the owner of that certain real property located 1650 Exploration Falls Drive, Chula Vista, California 91915, commonly known as the Enrique S. Camarena Elementary School.

B. California Education Code Section 17515 et seq. authorizes school districts to enter into joint occupancy leases and agreements with private persons, firms or corporations for the purpose of jointly occupying real property upon terms and conditions as the parties thereto may agree.

C. The governing board of a school district may let real property that belongs to the district if the instrument by which the property is let requires the lessee therein to construct on the demised premises, or provide for the construction thereon of, a building or buildings for the joint use of the school district and the lessee during the term of the agreement.

D. On August 14, 2012, Landlord's Governing Board ("Board") adopted resolution number 2012-13.14, Resolution of Intent to Lease Real Property for Joint Use of a Community Recreation Facility at Enrique S. Camarena Elementary School. Notice of adoption of the resolution and the time and place of holding the public hearing was made by publishing the resolution once a week for three weeks in The Star News on 8/24, 8/31, and 9/7.

E. On November 14, 2012, at a public hearing of the Board received and accepted a single proposal for the development and lease of a 3.27 acre portion of the Enrique S. Camarena School campus for joint use of community center facility. This facility will include a covered sports/soccer arena pavilion, playfield and a parking lot area.

F. Pursuant to the foregoing Landlord intends to lease a portion of the Mae L. Enrique S. Camarena School Property for development a state of the art recreation facility for joint use. The leased property is depicted and more particularly described on **Exhibit A**, attached hereto and incorporated herein by this reference (the "Premises"), to Tenant.

G. Tenant shall construct, develop and open the community recreation facility on the Premises for joint use with Landlord. Tenant shall offer the Programs (as defined below) and services more particularly described in this Lease (collectively, the "Project"), all pursuant to the terms and conditions set forth herein.

## II. **Agreement.**

**NOW, THEREFORE**, in consideration of the terms and conditions of this Lease, Landlord and Tenant agree as follows:

### I. LEASE OF THE PROPERTY.

Contingent upon approval of the YMCA proposal for the Project by the California State Board of Education (a division of the California Board of Education), Landlord, for and in consideration of the rents, covenants, and agreements hereinafter reserved and contained on the part of Tenant to be paid, kept, performed and observed by Tenant, shall lease to Tenant, and Tenant shall hire and lease from Landlord the Premises.

### 2. LEASE TERM AND TERMINATION.

2.1 **Initial Term.** Subject to the terms and conditions of this Lease, Tenant shall lease the Premises from Landlord and Landlord shall lease the Premises to Tenant for an initial term (the "Initial Term") commencing on the Effective Date and ending on the calendar date that is Thirty (30) calendar years later, unless sooner terminated as provided for herein.

2.2 **Optional Term.** At the end of the Initial Term, Tenant is granted the option to extend this Lease for an additional Thirty (30) calendar years (the "Optional Term") provided that the following conditions are met: (i) Tenant has completed the Improvements (as defined below) in a timely manner to the satisfaction of Landlord; (ii) Tenant is in actual occupancy of the Premises and is maintaining and operating the Improvements in accordance with the terms hereof to the satisfaction of Landlord; (iii) Tenant has timely paid all loan payments, rent and other financial obligations, as they become due, during the Initial Term; and (iv) Tenant is not in default of any of the terms, covenants and conditions of this Lease.

2.3 **Termination.** This Lease may be terminated as follows:

- a. By Landlord, upon 90 days written notice to Tenant, in the event that the Premises becomes subject to any law or regulation that prohibits, or make impracticable, the continued operation of the



Improvements in the manner contemplated hereunder.

- b. By Landlord, upon thirty (30) days written notice to Tenant in the event of a Default (which in the sole discretion of District constitutes a material default) and subsequent failure to cure in any manner provided hereunder, or, if not otherwise provided, failure to cure with in thirty (30) days of notice from Landlord of the conditions resulting in the default.
- c. It is understood and agreed that, upon termination of this Lease, for any reason, Tenant shall surrender the Premises and Improvements to Landlord in substantially their condition on the date construction is complete and the Improvements are accepted; reasonable wear and tear and any other conditions acceptable to Landlord are exempted. If, however, the termination is due to a Default involving failure to maintain the Improvements and the Improvements have deteriorated so as to, in Landlord's sole discretion, be unfit for the purpose for which they are being constructed, Landlord may decide to repair or demolish the Improvements and Tenant shall be solely responsible and agrees to reimburse Landlord for any and all costs incurred by Landlord in connection therewith.

### 3. THE IMPROVEMENTS AND PROJECT.

- 3.1 **Construction of Improvements.** Tenant shall, at its sole cost and expense, cause the construction of the following improvements, facilities and related amenities (the "Improvements") for the purpose of providing recreational, educational and social programs and services on or prior to the Completion Date:

Multi-Sports Pavilion – a covered sports pavilion featuring a soccer arena with artificial turf, lighting, restrooms, office space and concession area (consistent with the attached site plan). The approximate sizes of the various components are as follows:

- Entire parcel is: 142,387 S.F.(3.27 Ac). Includes parking lot area.
- Parking lot is: 19,085 S.F. (0.44 Ac)
- Playfield: 123,302 S.F. (2.83 Ac)
- Soccer Arena Pavilion approx.: 25,000 S.F.(Soccer Arena is 200'x85' =17K S.F.)

- 3.2 **Design and Construction.** Prior to commencing any construction work in connection with the Improvements, Tenant shall, at a minimum, do the following: (i) engage the services of a licensed architect and any other needed design consultant; (ii) obtain all permits required by law in connection with the construction of the Improvements; (iii) obtain all

required approvals for the preliminary and final design schematics, plans and specifications, including, but not limited to Landlord, the YMCA national and state headquarters, as applicable, the California Department of Education (“CDE”), the Division of the State Architect (“DSA”) and any other applicable approvals from any governmental agencies or other institutions or entities having jurisdiction over the construction and operation of the Premises and/or the Improvements; (iv) engage a licensed contractor to construct the Improvements; (v) obtain the approval of the Board of Trustees of the District in connection with the final design and exterior colors; and (vi) provide Copies to Landlord of all final approvals.

- a. Tenant shall construct, or cause to be constructed, the Improvements in accordance with all applicable laws and in a form satisfactory to Landlord. At all times during construction and inspections of the Premises conducted in connection with this Lease, a physical barrier, and visual screening satisfactory to the District, must be in place to prevent access to the site by non-construction personnel, especially students, and to prevent or minimize contact between the contractors, subcontractors or agents of Tenant and District students. It shall be Tenant's responsibility to comply with the fingerprinting provisions of the Education Code, in accordance with the provisions of the Operational Provisions defined below, and to ensure that all agents, contractors, subcontractors or any other persons entering the Premises in connection with the construction or design of the Improvements comply with such fingerprinting requirements, to the extent applicable.
- b. At all times during construction, and until final acceptance of the Improvement, Tenant shall provide the District with up to date contact information for the Inspector of Record, required by DSA and retained by Tenant in connection with the construction of the Improvements.

- 3.3 **Completion Date.** The Improvements, in substantially the form of the design drawings and specifications derived from the conceptual site and floor plans of which are attached hereto as **Exhibits B-1 and B-2**, as approved by the District prior to the commencement of construction, shall be completed, ready for occupancy and operational on or prior to \_\_\_\_\_ (the “Completion Date”), as such timing is more particularly set forth in the Schedule of Performance attached hereto as **Exhibit C** (the “Schedule of Performance”). Tenant shall not unreasonably postpone construction of the Improvements contemplated herein. The Improvements shall be designed with reasonable and customary care the

purpose for which they are being built and shall comply with all zoning and general plan requirements applicable to the Premises, as modified by Tenant's Conditional Use Permit. On or prior to the date that is sixty (60) calendar days from the Completion Date, Tenant shall provide copies of the final "as-built" drawings to the District.

- 3.4 **Compliance with Applicable Laws.** The Tenant shall construct or cause to be constructed the Improvements, and all associated public infrastructure facilities and amenities required by the City of Chula Vista (the "City") pursuant to its conditions of approval, if any, and all parking areas and landscaping, in accordance with and within the limitations established in this Lease and as required by the City. In connection with the construction, alteration or any required repairs, the Tenant shall also comply with the requirements of the CDE, the Field Act, commencing with section 17280 of the Education Code, as amended from time to time (the "Field Act"), Title 24 of the California Code of Regulations, the Americans with Disabilities Act, commencing with section 12101 of volume 42 of the United States Code, as amended from time to time the ("ADA"), the local fire department, the City's Municipal Code, the Area Redevelopment Plan, if any, all applicable federal, state and local laws, rules and regulations and any applicable mitigation measures adopted pursuant to the California Environmental Quality Act ("CEQA") and all other applicable laws, rules or regulations .
- 3.5 **Cost of Construction.** The cost of constructing all Improvements, and all public infrastructure facilities relating to the Project or required by Landlord, the City, OSA, CDE, CEQA, YMCA of the USA or any other federal, state or local unit of government having jurisdiction over, or providing services to, the Project shall be borne solely by the Tenant.
- 3.6 **Construction Period.** Anything to the contrary herein contained notwithstanding, Tenant shall complete all construction on the main facility within Eighteen (18) months of the commencement thereof (the "Construction Period"). The commencement of construction shall be the date provided in the Schedule of Performance or before, as evidenced by notice to proceed to any contractor or subcontractor, and can only be changed or amended by the written mutual agreement of the parties and any revisions shall only become effective after both the District and Tenant have agreed to the change. Until such an amendment is approved, the previously approved Schedule of Performance shall continue to govern the obligations of the parties.
- 3.7 **Progress of Construction.** During the Construction Period, the Tenant shall submit to Landlord monthly written reports of the progress to date of

the construction. The reports shall be in the same form and in the same detail as are normally prepared for internal reports of the Tenant or for reports from the Tenant's general contractor to the Tenant. The reports shall be in such form and detail as to reasonably inform Landlord of the status of construction to the date of each report, and shall include a reasonable number of photographs (if so requested by Landlord) taken since the date of the immediately previous report submitted by the Tenant to Landlord.

3.8 **Notice of Construction Meetings.** Tenant shall give reasonable notice to Landlord of the date, time and place of each construction-related meeting. Landlord may choose to attend any such meeting at its sole discretion.

3.9 **Final Acceptance of Improvements.** Prior to Tenant's final acceptance of the Improvements, Tenant shall obtain all appropriate certificates and warranties and shall conduct all necessary inspections. Tenant shall provide copies of all such certificates, including a certificate certifying that no materials containing lead or asbestos have been specified, used or installed on the Improvements, to the District.

4. **USE OF THE PREMISES AND IMPROVEMENTS AND OPERATIONAL PROVISIONS.**

4.1 **Use of the Premises.** Tenant covenants and agrees for itself, its successors and assigns, that during the Term, unless otherwise consented to by Landlord in writing, the Premises shall be devoted to and used for the construction and development of the Improvements and the operation of the Programs as further set forth herein.

4.2 **Purpose and Use of the Improvements.** The Improvements shall be used primarily for recreational, educational and social programs and services intended to benefit the District and the community, including but not limited to those described in **Exhibit D**, and for any other uses needed in the community, typically provided by Tenant, appropriate for the Improvements constructed and acceptable to Landlord (collectively, the "Programs"). Landlord reserves the right to, on an annual basis, on or prior to the anniversary date of the Effective Date of this Lease, review and comment upon and/or veto any of the programs being provided or made available to the community by Tenant; provided that the District will only veto any programs not in compliance with District policies or procedures or that materially interfere with the educational functions and operations of the District and/or the Enrique S. Camarena School.

4.3 **District Use.** District and Tenant agree that District shall be allowed to make use of the Premises and the Improvements in the following manner:

- a. **Exclusive Use of Certain Improvements.** Students of the District's Enrique S. Camarena School, and any other students or employees designated by District and approved by Tenant, shall have sole and exclusive use of certain Improvements on the days and times set forth in **Exhibit E**, as from time to time modified or amended by District and Tenant. There shall be no charge or fees for such use, except for agreed upon lifeguard and supervisory costs, if any, and clean-up and damage costs, if District fails to clean-up and/or repair any damage caused by such users in the manner provided for herein. **Exhibit E** may be amended at any time by the mutual agreement of the parties, which agreement shall be so evidenced by the signature of an authorized representative of each party on a revised version of Exhibit E, which shall be effective as of the date thereof. Any such exhibit shall govern the District's "Exclusive Use" from its date forward, until amended by the parties, but shall have no other effect on the contents and validity of this Lease.
- b. **Reserved Use.** In addition to the Exclusive Use reserved to the District above, the District and Tenant may agree on dates and times for District students and/or employees designated by District and agreed to by Tenant to reserve the use of the facilities during hours of non-operation by the YMCA at the charge and upon the conditions agreed upon by Tenant and District.
- c. **Shared Use.** District's staff, students and invitees may use the Improvements and/or participate in YMCA Programs at rates, including flat rates and/or group rates, and pursuant to any conditions agreed upon by District and Tenant.
- d. **Other Use.** Nothing in this Agreement shall be construed to prohibit or prevent the use of the Premises or Improvements by District's students, staff, volunteers, employees, agents or invitees in the manner, at the fees and on the conditions normally applicable to any person in the community.

- 4.4 **Physical Barrier.** Once completed, the Improvements and Premises shall be accessible to the District from the Enrique S. Camarena School Property, but shall be separated with a physical barrier from the school facilities located at the Enrique S. Camarena School Property. The barrier can be a chain-link fence to match existing fence and access can be through a gate that should remain locked at all times. Only the Principal or designees of the Principal, of the school and the manager assigned by Tenant to supervise the operations at the Improvements shall have keys to said lock. The keys shall be accounted for at all times and shall only be

used on the dates and times scheduled by mutual agreement of the parties for District use of the Improvements.

4.5 **Operational Provisions.** The Tenant's use and operation of the Improvements and the Premises shall also be subject to the District's laws and regulations governing the use and operation of District property. Certain operational provisions for Tenant are set forth in **Exhibit F**. The operational provisions constitute obligations of Tenant additional to all other obligations set forth in this Lease. If a conflict arises in connection with any operational guideline and any obligation set forth in this Lease, Tenant shall inform District and District shall determine, at its sole discretion, which obligations Tenant must fulfill. Exhibit F may be amended at any time by the mutual agreement of the parties hereto, which agreement shall be evidenced by the signature of an authorized representative of each party on a revised version of Exhibit F. Any such amendment shall be effective as of the date thereof and shall replace the then current version of Exhibit F, but shall have no other effect on the content and validity of this Lease.

4.6 **Only Lawful Uses Permitted.** Tenant shall not use the Enrique S. Camarena School Property, Premises or Improvements for any purpose that is in violation of any law, ordinance or regulation of any federal, state, county or local governmental body or entity. Furthermore, Tenant shall not maintain or commit any nuisance, as now or hereafter defined by any applicable statutory or decisional law, on the Property, Premises or Improvements, or any part thereof.

## 5. RENT.

5.1 **Net Lease.** Except as otherwise provided in this Lease, it is the intent of the parties hereto that the rent paid by Tenant to Landlord pursuant to this Lease shall be absolutely net to Landlord and that Tenant shall pay all costs, taxes, charges, and expenses of every kind and nature against the Premises and the Improvements which may arise or become due during the Term.

5.2 **Rent.** During the Initial Term of this Lease, Tenant shall pay to Landlord as rent ("Rent") the amount of one dollar (\$1.00), payable on an annual basis no later than the Effective Date and on each anniversary of the Effective Date thereafter. During the Optional Term, Tenant shall pay to Landlord as Rent the amount of one dollar (\$1.00) or as adjusted by Landlord and Tenant.

5.3 **Payment of Rent.** All Rent that becomes due and payable pursuant to this Lease shall be paid to Landlord at the address of Landlord listed in

Section 24.7 or such other place as Landlord may from time to time designate by written notice to the Tenant without notice or demand, and without set off, counterclaim, abatement, deferment, suspension or deduction. The term “rent” or “Rent” shall include all payments under this Lease, including, without limitation, any additional rent, fees, charges, taxes, utility costs or expenses which may be due and payable to Landlord under the terms of this Lease.

6. UTILITIES AND TAXES.

6.1 **Utilities.** Tenant shall pay or cause to be paid, all charges for gas, electricity, water, garbage collection, telephone, internet, cable television, and any other services or utilities furnished to the Premises in connection with the Improvements and/or Programs and/or any use thereof. To the extent any sewer use charges, tap-in fees, capacity fees, permit fees, hookup or similar charges or assessments for utilities concerning the Premises or the Improvements are levied against the Enrique S. Camarena School Property during the Term, Tenant agrees to compensate Landlord for such charges promptly upon request. Tenant shall provide for separate utility connections for all utilities used on the Premises, to the extent required by law or the service provider.

6.2 **Real Estate Taxes.**

- a. As used herein, the term “real estate taxes” shall mean all real estate or real property taxes, possessory interest taxes, assessments for the Improvements or the Premises, municipal or county water and sewer fees, assessments, rates and charges, or any other assessments or taxes, which shall be levied against, or in connection with, the Premises.
- b. Tenant shall have the right to contest the amount or validity of any real estate or real property taxes, in whole or in part, by appropriate administrative and legal proceedings, without any costs or expense to Landlord, and Tenant may postpone payment of any such contested real estate or real property taxes pending the prosecution of such proceedings and any appeals so long as such proceedings shall operate to prevent the collection of such real estate taxes and the sale of the Premises and any Improvements to satisfy any lien arising out of the nonpayment of the same, and Tenant furnishes a bond to Landlord in an amount acceptable to Landlord securing the payment of the same in the event a decision in such contest shall be adverse to Tenant.

6.3 **Personal Property.** Tenant covenants and agrees to pay before

delinquency all personal property taxes, assessments and liens of every kind and nature upon all personal property as may be from time to time situated within the Premises or the Improvements.

- 6.4 **Possessory Interest.** Pursuant to the provisions of the California Revenue and Taxation Code, Landlord hereby provides notice to Tenant that Tenant's leasehold interest created by this Lease may result in a possessory interest tax being levied against Tenant, and that in such event Tenant shall be obligated to pay such tax.

If, pursuant to the California Revenue and Taxation Code, the Premises and/or Improvements are required to be assessed and taxed in the same manner as privately owned property, Tenant shall pay or cause to be paid before any fine, penalty, interest or cost may be added thereto for the nonpayment thereof, all real estate taxes which may be levied against any and all interests in the Premises and any Improvements during the Term, and not merely the assessed value of the leasehold interest in the Premises; provided, however, that Tenant may apply for any applicable exemption from the payment of property taxes and assessments.

## 7. OWNERSHIP OF IMPROVEMENTS, FIXTURES AND FURNISHINGS.

- 7.1 **Ownership During Term.** All Improvements constructed on the Premises by Tenant, as permitted by this Lease, shall, during the Term, be and remain the property of Tenant; provided, however, that: (i) Tenant shall have no right to waste the Improvements, or to destroy, demolish or remove any Improvements except as otherwise permitted pursuant to this Lease or approved by Landlord pursuant to a written amendment to this Lease; and, (ii) Tenant's rights and powers with respect to the Improvements are subject to the terms and limitations of this Lease.
- 7.2 **Ownership at Termination.** Upon termination of this Lease for any reason whatsoever, title to all Improvements, fixtures and furnishings on the Premises and/or any other portion of the Enrique S. Camarena School Property shall, without compensation to Tenant, automatically vest in Landlord free and clear of all liens, encumbrances, and claims to or against them by Tenant or any third person, firm, or entity, including but not limited to any mortgagee or lender. Tenant agrees to execute a quitclaim deed and go all things necessary to transfer clean title to the Premises and Improvements to Landlord. Tenant shall transfer the Premises and Improvements in good, clean, and safe working condition to the District.

## 8. INDEMNIFICATION: FAITHFUL PERFORMANCE.



- 8.1 Tenant shall not suffer or permit any liens to be enforced against the fee simple estate in reversion of Landlord as to the Premises and the Improvements, nor against Tenant's leasehold interest, for any reason, including but not limited to by reason of work, labor, services, or materials supplied or claimed to have been supplied to Tenant or anyone holding the Premises, or any part thereof, through or under Tenant. Tenant agrees to defend, indemnify, and hold Landlord and City and their respective trustees, officers, officials, employees, agents, and representatives, harmless against such liens, claims, or actions, including attorney's fees and costs. If any such lien shall at any time be filed against the Enrique S. Camarena School Property, Premises and/or Improvements, Tenant shall, within thirty (30) days after notice to Tenant of the filing thereof, cause the same to be discharged of record; provided, however, that Tenant shall have the right to contest the amount or validity, in whole or in part, of any such lien by appropriate proceedings but in such event, Tenant shall notify Landlord and promptly bond such lien in the manner authorized by law with a responsible surety company qualified to do business in the State of California or provide other security acceptable to Landlord. Tenant shall prosecute such proceedings with due diligence.
- 8.2 Nothing in this Lease shall be deemed to be, nor shall be construed in any way to constitute, the consent or request of Landlord, express or implied, by inference or otherwise, to any person, firm or corporation for the performance of any labor or the furnishing of any materials for any construction, rebuilding, alteration or repair of or to the Improvements, or any part thereof.
- 8.3 Prior to commencement of construction of the Improvements, or any repair or alteration thereto (other than emergency repair or alteration), Tenant shall give Landlord not less than thirty (30) days advance notice in writing of intention to begin said activity in order that nonresponsibility notices may be posted and recorded as provided by state and local laws. It is agreed that Tenant may provide reasonable notice of not less than twenty-four (24) hours in case of an emergency repair or alteration.

9. [RESERVED]

10. MAINTENANCE AND REPAIR; CAPITAL REPLACEMENT RESERVE.

- 10.1 **Maintenance and Repair.** Landlord places prime importance on quality maintenance to ensure the safety and well-being of its students, staff, visitors and volunteers at the Enrique S. Camarena School and any other person using the Improvements and/or participating in any Programs. Except as otherwise provided in this Lease, Tenant assumes full responsibility for the construction, operation and maintenance of the

Improvements, without any expense to Landlord, and agrees to perform all repairs and replacements necessary to maintain and preserve the Improvements and the Premises in a clean and safe condition reasonably satisfactory to Landlord and in compliance with all applicable laws. Normal wear and tear of the Improvements will be acceptable to Landlord assuming Tenant regularly constructs and performs all necessary repairs to maintain the Improvements in first-class condition, similar to their condition on the date the Improvements are accepted from the contractor. In addition, Tenant shall keep the Premises and the Improvements free from all graffiti and any accumulation of debris or waste material.

- 10.2 Tenant hereby waives all rights to make repairs or to cause any work to be performed at the expense of Landlord as provided for in Section 1941 and 1942 of the California Civil Code.
- 10.3 Notwithstanding the foregoing, in the event Tenant breaches any of the covenants contained in this Article 10 and such default continues for a period of two (2) days after written notice from Landlord (with respect to graffiti, debris, waste material), ten (10) days after written notice from Landlord with respect to general maintenance, thirty (30) days after written notice from Landlord (with respect to landscaping and building improvement work estimated at 55,000 or less "minor work"), or sixty (60) days after written notice from Landlord (with respect to landscaping and building improvement work estimated at over 55,000 "major work") then Landlord, in addition to whatever other remedy it may have at law or inequity, shall have the right to enter upon the Premises and perform or cause to be performed all such acts and work necessary to cure the default. Pursuant to such right of entry, Landlord shall be permitted (but is not required) to enter upon the Premises to perform all acts and work necessary to protect, maintain, and preserve the Improvements, including any minor work or major work required. All costs incurred by Landlord in connection with the performance of said works of maintenance and/or repair plus a twenty percent (20%) administrative charge, shall be paid by Tenant within thirty (30) days of receipt of an invoice from Landlord. Payment of such invoice by Tenant shall not come from or reduce any rent or other monies due Landlord pursuant to this Lease or any other instrument or agreement between Landlord and Tenant.
- 10.4 The following standards shall be complied with by Tenant, its contractors, its maintenance staff and maintenance contractors, as applicable:
  - a. Tenant shall maintain the Improvements, including all common areas, all interior and exterior facades, and all exterior areas of all buildings, in a safe and sanitary fashion suitable for their intended purpose. Tenant shall be responsible for all utility services,

administrative services, supplies, contract services, maintenance, maintenance reserves, and management for the Premises including interior spaces, common area spaces and public rights-of-way for the Improvements.

- b. Landscape maintenance shall include, but not be limited to: watering/irrigation; fertilization; mowing, edging, and trimming of grass; tree and shrub pruning; trimming and shaping of trees and shrubs to maintain a healthy, natural appearance and safe road conditions and visibility, and optimum irrigation coverage; replacement, as needed, of all plant materials; control of weeds in all planters, shrubs, lawns, ground covers, or other planted areas; and staking for support of trees.
- c. Clean-up maintenance shall include, but not be limited to: maintenance of all private paths, parking areas, driveways and other paved areas in clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris or other matter which is unsafe or unsightly; and removal of all trash, litter and other debris from all areas maintained prior to the end of the day in which the maintenance operations are performed to ensure that all cuttings, weeds, leaves and other debris are properly disposed of.
- d. The Improvements shall be constructed, repaired and maintained in conformance and in compliance with the approved construction and architectural plans and design scheme, as the same may be amended from time to time with the approval of Landlord (and the City, if such approval is required).
- e. All construction repair and maintenance work shall conform to all applicable federal and state Occupation Safety and Health Act standards and regulations.
- f. Any and all chemicals, unhealthful substances, and pesticides used in and during construction, repair and maintenance shall be applied only by persons possessing valid California applicator licenses, and in strict accordance with all governing regulations. Precautionary measures shall be employed recognizing that all areas are open to public access.
- g. Parking lots, lighting fixtures, trash enclosures, and all areas on the Premises which can be seen from the adjacent streets shall be kept free from any accumulation of debris or waste materials by regularly scheduled maintenance.

11. ENVIRONMENTAL MATTERS.

11.1 **Definitions.** For the purposes of this Lease, unless the context otherwise specifies or requires, the following terms shall have the meanings herein specified:

- a. The term “Hazardous Materials” shall mean any substance, material, or waste which is or becomes regulated by any local governmental authority, the County of San Diego, the State of California, regional governmental authority or the United States Government, including, but not limited to, any material or substance which is (i) defined as a “hazardous waste,” “extremely hazardous waste,” or “restricted hazardous waste” under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a “hazardous substance” under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a “hazardous material,” “hazardous substance,” or “hazardous waste” under Section 2550 I of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a “hazardous substance” under Section 2528 1 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) friable asbestos, (vii) polychlorinated byphenyls, (viii) listed under Article 9 or defined as “hazardous” or “extremely hazardous” pursuant to Article II of Title 22 of the California Administrative Code, Division 4, Chapter 20, (ix) designated as “hazardous substances” pursuant to Section 311 of the Clean Water Act (33 U.S.C. ' 13-17), (x) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. ' 6901 et seq. (42 U.S.C. 6903) or (xi) defined as “hazardous substances” pursuant to Section 10 1 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq.
- b. The term “Hazardous Materials Contamination” shall mean the contamination (whether presently existing or hereafter occurring) of the Improvements, facilities, soil, groundwater, air or other elements on, in or of the Enrique S. Camarena School Property or the Premises by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air or other elements on, in or of any other property as a result of Hazardous Materials at any time (whether before or after the Date of Lease) emanating from the

Premises.

- c. The term “Governmental Requirements” shall mean all past, present and future laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the state, the county, the city, or any other political subdivision in which the Premises are located, and any other state, county city, political subdivision, Landlord, instrumentality or other entity exercising jurisdiction over Landlord, Tenant or the Premises.

**11.2 Tenant's Environmental Indemnity.** Tenant shall save, protect, defend, indemnify and hold harmless Landlord, its, trustees, officers, officials, employees, volunteers, assigns, successors in interest and agents from and against any and all liabilities, suits, actions, claims, demands, penalties, damages (including, without limitation, penalties, fines and monetary sanctions), losses, costs or expenses (including, without limitation, consultants' fees, investigation fees, reasonable attorney's fees and costs and remedial and response costs) (the foregoing are collectively referred to as “Liabilities” in this paragraph) which may now or in the future be incurred or suffered by Landlord and its, trustees, officers, officials, employees, or agents by reason of, resulting from, in connection with, or existing in any manner whatsoever as a direct or indirect result of (1) Tenant's use, generation, discharge, emission or release from the Premises of any Hazardous Materials or Hazardous Materials Contamination prior to or after the commencement of this Lease, including any Liabilities incurred under any Governmental Requirements relating to such Hazardous Materials or Hazardous Materials Contamination, (2) the performance by Tenant of any acts or omissions with respect to use or operation of the Premises, the Improvements or the Programs, including, but not limited to, the performance of any act required by this Lease, and (3) the performance by Landlord of any act required to be performed by the Tenant under this Lease. Tenant's obligations under this Article 11 shall survive the expiration or early termination of this Lease and shall not merge with any grant deed.

**11.3 Landlord's Covenant.** Landlord covenants and represents that, as of the Effective Date of this Lease, there are no known Hazardous Materials or Hazardous Materials Contamination at the premises. Tenant may, at its sole cost and expense, conduct a Phase I Environmental Site Assessment (“ESA”) prior to making improvements on the Premises and, if so recommended in the Phase I ESA, a Phase II ESA. Landlord agrees to remediate any Hazardous Materials Contamination uncovered by the Phase II ESA, at Landlord's sole cost and expense.

**11.4 Duty to Prevent Hazardous Material Contamination.** Tenant shall take

all necessary precautions to prevent the release of any Hazardous Materials into the environment. Such precautions shall include compliance with all Governmental Requirements with respect to Hazardous Materials. In addition, Tenant shall install and utilize such equipment and implement and adhere to such procedures as are consistent with the standards generally applied by similar projects in San Diego County, California as respects the disclosure, storage, use, removal, and disposal of Hazardous Materials. Tenant shall not, and shall not cause or permit any other person or entity to, release, store, bring upon, dispose of or transport to or from the Premises any Hazardous Materials or by-products or waste from such Hazardous Materials.

- 11.5 Obligation of Tenant to Remediate Premises.** In the event of contamination of the Premises arising directly or indirectly from Tenant's use, generation, discharge, emission or release upon, about or beneath the Premises of any Hazardous Materials occurring during the Term, Tenant shall, subject to Landlord's rights herein, at its sole cost and expense, promptly take (i) all action properly required by any federal, state, regional, or local governmental or political subdivision requirements and (ii) all actions necessary to make full economic use of the Premises for the purposes contemplated by this Lease, which requirements or necessity. Such actions shall include, but not be limited to, the investigation of the environmental condition of the Premises, the preparation of any feasibility studies or reports and the performance of any cleanup, remedial, removal or restoration work. Tenant shall take all actions necessary to promptly restore the Premises to an environmentally sound condition for the uses contemplated by this applicable Governmental Requirements.
- 11.6 Right of Entry.** Notwithstanding any other term or provision of this Lease, Tenant shall permit Landlord or its agents or employees to enter the Premises at any time during normal business hours, without prior notice in the event of an emergency, and with not less than twenty-four (24) hours advance notice if no emergency is involved, to inspect, monitor and/or take emergency or long-term remedial action with respect to Hazardous Materials and Hazardous Materials Contamination on or affecting the Premises or Improvements, or to discharge Tenant's obligations hereunder with respect to such Hazardous Materials and Hazardous Materials Contamination when Tenant has failed to do so after written notice from Landlord and expiration of a reasonable opportunity to cure such deficiency, not exceeding seven (7) days, unless such cure reasonably requires a greater period of time in which case Tenant shall be in compliance herewith if Tenant commences such cure within the same seven (7) day period. All costs and expenses incurred by Landlord in connection with performing Tenant's obligations hereunder shall be

reimbursed by Tenant to Landlord with in thirty (30) days of Tenant's receipt of written request therefor.

- 11.7 **Storage or Handling of Hazardous Materials.** Subject to the provisions of this Lease, Tenant, at its sole cost and expense, shall comply with all Governmental Requirements for the storage, use, transportation, handling and disposal of Hazardous Materials on or about the Premises. In the event Tenant does store, use, transport, handle or dispose of any Hazardous Materials, Tenant shall notify Landlord in writing at least ten (10) days prior to their first appearance on the Premises and Tenant's failure to do so shall constitute a material default under this Lease. Tenant shall conduct all monitoring activities required or prescribed by applicable Governmental Requirements, and shall, at its sole cost and expense, comply with all posting requirements of Proposition 65 or any other similarly enacted Governmental Requirements. After notification to Landlord of the intended use of a hazardous material, Landlord may, at its sole discretion, determine that such use shall not be allowed on the Premises and/or the Improvements and shall notify Tenant in writing. Tenant agrees to abide by any such determination.

## 12. DAMAGE OR DESTRUCTION.

- 12.1 **Obligation to Repair and Restore Damage Due to Casualty Covered by Insurance.** Subject to Section 12.3 below, if the Improvements are totally or partially destroyed or rendered wholly or partly uninhabitable by fire or other casualty, Tenant shall take all steps necessary to promptly and diligently commence the repair or replacement of the Improvements (and any parts of the Premises and the Enrique S. Camarena School Property collaterally damaged by said fire or casualty) to substantially the same condition as existed immediately prior to the casualty, whether or not any insurance proceeds are sufficient to cover the actual cost of repair, replacement, or restoration . Tenant shall be solely responsible for any costs exceeding any insurance proceeds. Tenant shall complete the same as soon as possible thereafter so that the Improvements and Programs can continue to be operated and occupied in accordance with the Lease. In no event shall the repair, replacement, or restoration period exceed one (1) year from the date of loss unless Landlord's Superintendent, or her or his designee, in his or her sole and absolute discretion, approves a longer period of time. Repair or restoration of any affected portion of the Enrique S. Camarena School Property shall be given priority, at District's request. Landlord shall cooperate with Tenant, at no expense to Landlord, in obtaining any governmental permits required for the repair, replacement, or restoration. If, however, the then-existing laws of any other governmental agencies with jurisdiction over the Enrique S. Camarena School Property and Premises do not permit the repair,

replacement, or restoration, Tenant may elect not to repair, replace, or restore the Improvements by giving notice to Landlord (in which event Tenant will be entitled to all insurance proceeds but Tenant shall be required to remove all debris from the Enrique S. Camarena School Property and the Premises and to restore the Brief Description Property and Premises to approximately their original condition on the date of this Lease) or Tenant may reconstruct such other Improvements as are consistent with applicable land use regulations and approved by the City, Landlord, and the other governmental agencies with jurisdiction. In the event Tenant elects not to repair, replace, or restore, and gives Landlord notice of such election as provided herein, this Lease shall terminate.

**12.2 Continued Operations.** During any period of repair, Tenant shall continue, or cause the continuation of, the operation of the Improvements and Programs to the extent reasonably practicable and to the extent it is safe.

**12.3 Damage or Destruction Due to Cause Not Required to be Covered by Insurance.** If any Improvements are completely destroyed or substantially damaged by a casualty against which Tenant is not required to (and has not) insured, then Tenant may elect not to repair, replace, or restore such Improvements by providing Landlord with written notice within ninety (90) days after such substantial damage or destruction. In such event, Tenant shall remove all debris from the Enrique S. Camarena School Property and Premises. As used in this Section 12.3, "substantial damage" caused by a casualty not required to be (and not) covered by insurance shall mean damage or destruction which is ten (10%) or more of the replacement cost of the Improvements, to the extent constructed at the time of the casualty. If Tenant fails to give such notice Tenant shall be conclusively deemed to have waived its right not to repair, replace, or restore the Improvements and thereafter Tenant shall promptly commence and complete the repair, replacement, or restoration of the damaged or destroyed Improvements in accordance with Section 12.1 above shall continue operation of the Improvements and Programs during the period of repair (if practicable) in accordance with Section 12.2 above. If Tenant elects not to repair, replace, or restore, and gives Landlord notice of such election as provided herein, this Lease shall terminate.

### **13. SALE, ASSIGNMENT, SUBLEASE OR OTHER TRANSFER.**

**13.1 No Assignment.** Tenant shall not sell, assign, sublease, mortgage, pledge, hypothecate or otherwise transfer this Lease or any right therein, nor make any total or partial sale, assignment, sublease, mortgage, pledge, hypothecation or transfer in any other mode or form of the whole or any part of the Premises or Improvements (each of which events is



referred to in this Lease as an “assignment”), without prior written approval of Landlord, which approval may be given or withheld in Landlord’s sole and absolute discretion. It shall be deemed reasonable for Landlord to refuse to consent to an assignment for any reason or for no stated reason. In the event such approval is granted, the assignment shall not be effective unless and until the assignor and assignee have signed an assignment and assumption agreement in a form and with contents approved by Landlord’s Governing Board. Any purported assignment without the prior written consent of Landlord shall render this Lease absolutely null and void and shall confer no rights whatsoever upon any purported assignee or transferee and shall cause the automatic vesting of title to the Improvements in Landlord, in the manner provided above.

- 13.2 **No Subordination.** Landlord and Tenant acknowledge and agree that neither Landlord’s interest or fee ownership of the Premises (including its reversionary interest therein and in the Improvements) nor Landlord’s right to receive rent hereunder shall be subordinate to any permitted encumbrance or any other lien, mortgage, deed of trust, pledge or other encumbrance of Tenant’s leasehold interest hereunder.

14. **INDEMNITY.**

- 14.1 **Tenant Indemnity.** Tenant agrees to indemnify, defend and save free and harmless Landlord, its agents, officers, representatives and employees from and against any claims, liabilities, penalties, fines and for any damage to the goods, properties or effects of Tenant, its subtenants or representatives, agents, employees, guests, licensees, invitees, patrons or clientele or of any other person whomsoever, and for injuries to or deaths of any persons, whether caused by or resulting from any act or omission of Tenant or its subtenants or any other person on or about the Premises and Improvements, or in connection with the operation thereof, or from any defect in the Premises or the Improvements (collectively referred to in this paragraph as the “Claims”). Upon demand from Landlord, Tenant shall appear and defend Landlord against any such Claims. Tenant also agrees to indemnify, defend, and save free and harmless Landlord and its officers, officials, employees, agents, and representatives against any costs and expenses incurred by Landlord (including but not limited to attorney’s fees and costs and expert witness fees) on account of any Claims. Tenant shall not be responsible for (and such indemnity shall not apply to) any such Claims due to or arising solely out of any acts, errors or omissions of Landlord or its officers, officials, employees, agents, and representatives. This provision shall survive the termination of this Lease.

- 14.2 **District Indemnity.** In connection with the Exclusive Use of any

Improvements by the District, as described above in Section 4.3, or any other exclusive use of any Improvements by District employees, officers, or agents, District agrees to defend and indemnify and hold harmless the YMCA and its officers, directors, agents and employees from and against any claims, liabilities, penalties, fines or damage arising out of the sole and exclusive negligent acts or omissions of District's officers, employees or agents; provided that no violation of any duty of care owed by the YMCA hereunder has contributed to the damage, injury or other incident for which relief is being sought. In the event that both parties are held jointly and severally liable for an act or negligence related to the District's Exclusive Use of the Premises and or the Improvements, and, if there is no determination as to the relative fault of each party, the District and the YMCA shall each bear their own costs of defense and shall cooperate to reach an agreement as to the appropriate sharing of liabilities, penalties, fines and/or damages arising from the claim.

15. INSURANCE BY TENANT.

15.1 **Insurance to be Provided by Tenant.** During the Term, Tenant, at its sole cost and expense, shall:

- a. Maintain or cause to be maintained a policy or policies of insurance against loss or damage to the Premises and the Improvements, resulting from fire, lightning, vandalism, malicious mischief, and such other perils ordinarily included in extended coverage fire insurance and casualty loss policies. Such insurance policy shall be maintained in an amount not less than one hundred percent (100%) of the "Full Replacement Cost" of the Improvements, as defined herein in this Article 15.
- b. Maintain or cause to be maintained such policies of insurance, in such amounts and with such terms and conditions that are set forth in any loan documents concerning the Improvements.
- c. Maintain or cause to be maintained Commercial General Liability insurance, in an amount not less than Five Million Dollars (\$5,000,000), per person, per occurrence and not less than Ten Million Dollars (\$10,000,000) aggregate limit with deductible or self-insurance of not more than \$100,000 . Aggregate limits shall be specific to the premiums. The required amount of insurance shall be subject to increases as Landlord may reasonably require from time to time. Tenant agrees that provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which Tenant may be held responsible for the payment of damages to persons or property resulting from Tenant's

activities, or the activities of any other person or persons for which Tenant is otherwise responsible.

- d. Maintain or cause to be maintained worker's compensation insurance issued by a responsible carrier or through or a self insurance program, as authorized under the laws of the State of California to insure employers against liability for compensation under the workers' compensation laws now in force in California, or any laws hereafter enacted as an amendment or supplement thereto or in lieu thereof. Such workers' compensation insurance shall cover all persons employed by Tenant in connection with the Premises, Improvements and Programs and shall cover full liability for compensation under any such act aforesaid, based upon death or bodily injury claims made by, for or behalf of any person incurring or suffering injury or death in connection with the Premises or the Improvements or the operation thereof by Tenant. If Tenant self-insures for worker's compensation, Tenant must provide District with a Certificate of Consent to Self-Insure issued by the State of California and a letter certifying self-insurance and limits on liability. In addition, District may request evidence of financial integrity, such as copies of Tenant's audited financial statements.
- e. Before commencement of any demolition or construction work the Tenant shall also procure or cause to be procured, at Tenant's sole cost and expense and shall maintain in force until completion of the construction of the Project "all risk" builder's risk insurance, including coverage for vandalism and malicious mischief, in a form and amount and with a company reasonably acceptable to Landlord. The builder's risk insurance shall cover improvements in place and all material and equipment at the job site furnished under contract, but shall exclude contractors', subcontractors', and construction managers' tools and equipment and property owned by contractors' and subcontractors' employees.

- 15.2 **Definition of "Full Replacement Cost".** The term "Full Replacement Cost" as used in this Article 15 shall mean the actual replacement cost (excluding the cost of excavation, foundation and footings below the lowest floor and without deduction for depreciation) of the Improvements, including the cost of construction, architectural and engineering fees, and inspection and supervision. To ascertain the amount of coverage required, Tenant shall cause the Full Replacement Cost to be determined from time to time by appraisal by the insurer or, if no such appraisal is available, by an appraiser mutually acceptable to Landlord and Tenant, not less often than once every twelve (12) months.

- 15.3 **General Insurance Provisions.** All policies of insurance provided for in this Article 15, except for the workers' compensation insurance, shall name Tenant as the insured and Landlord as additional insured. Tenant must provide District with Certificates of Insurance that indicate appropriate coverages as provided for in this Lease. Tenant agrees to timely pay all premiums for such insurance and, at its sole cost and expense, to comply and secure compliance with all insurance requirements necessary for the maintenance of such insurance. Tenant agrees to submit policies of all insurance required by this Article 15 of this Lease, or certificates evidencing the existence thereof, to Landlord on or before the effective date of this Lease, indicating full coverage of the contractual liability imposed by this Lease. At least thirty (30) days prior to expiration of any such policy, copies of renewal policies, or certificates evidencing the existence thereof shall be submitted to Landlord. Unless otherwise provided in Section 15.1, all insurance provided for under this Article 15 shall be effected under policies issued by insurers of recognized responsibility, licensed or permitted to do business in the State of California, approved by Landlord. All policies and certificates of insurance, including worker's compensation, shall also: (i) provide that such policies shall not be canceled or limited in any manner without at least thirty (30) days prior written notice to Landlord; and (ii) provide that such coverage is primary and not contributing with any insurance as may be obtained by Landlord and shall contain a waiver of subrogation for the benefit of Landlord.
- 15.4 **Failure to Maintain Insurance.** If Tenant fails or refuses to procure or maintain insurance as required by this Lease, Landlord shall have the right, at Landlord's election, and upon ten (10) days prior notice to Tenant, to procure and maintain such insurance and charge Tenant for the same. Landlord shall give prompt notice of the payment of such premiums, stating the amounts paid and the name of the insured(s).
- 15.5 **Insurance Proceeds Resulting from Loss or Damage to the Improvements.** All proceeds of insurance with respect to loss or damage to the Improvements during the Term of this Lease shall be payable, under the provisions of the policy of insurance, to Tenant, and said proceeds shall constitute a trust fund to be used for the restoration, repair and rebuilding of the Improvements.
- a. To the extent that such proceeds exceed the cost of such restoration, repair or rebuilding, then such proceeds shall be apportioned between Tenant and Landlord as their interests may appear.

- b. In the event this Lease is terminated by mutual agreement of Landlord and Tenant and the Improvements are not restored, repaired or rebuilt, the insurance proceeds shall be jointly retained by Landlord and Tenant and shall be applied first to any payments due under this Lease from Tenant to Landlord, second to restore the Premises and the Improvements to their original condition and to a neat and clean condition, and finally any excess shall be apportioned between Tenant and Landlord as their interests may appear. The value of each interest for the purpose of apportioning excess proceeds under this Section shall be the fair market value of such interests immediately prior to the occurrence of the damage or destruction.

16. INSURANCE BY DISTRICT.

District shall maintain in effect adequate insurance, as required by law, in connection with any school related activities of District students to be performed or carried out at the Premises or the Improvements. In the event that District does not maintain insurance for those activities, District will provide a statement of self-insurance in form and content satisfactory to the YMCA.

17. OBLIGATION TO REFRAIN FROM DISCRIMINATION.

There shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises or the Improvements or participation in the Programs, and Tenant itself or any person claiming under or through it shall not establish or permit any such practice or practices of discrimination or segregation.

18. NONDISCRIMINATION IN EMPLOYMENT.

Tenant, for itself and its successors and assigns, agrees that during the operation of Programs and the Improvements, and during any work of repair or replacement, Tenant shall not discriminate against any employee or applicant for employment on the basis of any category or status not permitted by law.

19. LABOR STANDARDS.

Tenant shall comply, and require all contractors and subcontractors employed pursuant to this Lease to comply with all applicable labor standards provisions of the California Labor Code and federal law, including payment of prevailing wage if applicable.

20. COMPLIANCE WITH LAW.

Tenant agrees, at its sole cost and expense, to comply and secure compliance with all the requirements now in force, or which may hereafter be in force, of all municipal, county, state and federal and any other regulatory authorities, pertaining to the Enrique S. Camarena School Property, the Premises and the Improvements, as well as the Programs. The judgment of any court of competent jurisdiction, or the admission of Tenant in any action or proceeding against them, or any of them, whether Landlord be a party thereto or not, that Tenant, has violated any such ordinance or statute in the use of the Premises or the Improvements, or in the operation of the Programs, shall be conclusive of that fact as between Landlord and Tenant.

21. ENTRY AND INSPECTION.

Landlord reserves and shall have the right during reasonable business hours (except in cases of emergency), upon twenty-four (24) hours prior notice (except in cases of emergency) to Tenant by Landlord, to enter the Premises for the purpose of viewing and ascertaining the condition of the same, or to protect its interests in the Premises and the Improvements or to inspect the operations conducted thereon.

22. RIGHT TO MAINTAIN AND CURE PERIOD.

In the event that the entry or inspection by Landlord pursuant to Section 21 hereof discloses that the Premises or the Improvements are not in a decent, safe, and sanitary condition, Landlord shall give written notice to Tenant specifying the unacceptable condition or conditions. Tenant shall then have thirty (30) days to cure, correct, or remedy the condition(s), unless a lesser period is specified hereunder or is required to protect the health or safety of the tenants or residents of the community (the "Cure Period"). If such cure, correction, or remedy, is not reasonably completed during the Cure Period, Tenant shall not be in default if the cure, correction, or remedy is commenced within the Cure Period and is diligently prosecuted to completion to District's satisfaction. If the condition(s) are not cured, corrected, or remedied with the above time periods, Landlord shall have the right upon notice to Tenant (except in case of emergency, in which event no notice shall be necessary), to have any necessary maintenance work done for and at the expense of Tenant and Tenant hereby agrees to pay promptly any and all costs incurred by Landlord, plus a twenty (20%) percent administrative charge, in having such necessary maintenance work done in order to keep the Premises and or the Improvements in a decent, safe and sanitary condition. If Tenant fails to reimburse Landlord within thirty (30) days of the date of an invoice sent by Landlord to Tenant in connection with such work, Tenant shall pay Landlord interest on such amounts at the highest rate permitted by law, as provided in Section 24.6 herein. The rights reserved in this

Section shall not create any obligations on Landlord or increase obligations elsewhere in this Lease imposed on Landlord.

## 23 . EVENTS OF DEFAULT AND REMEDIES.

**23.1 Events of Default by Tenant.** The occurrence of one or more of any of the following events shall constitute an “Event of Default” by Tenant hereunder if Tenant shall have not cured, corrected, or remedied such failure within the Cure Period, or if it is not practicable to cure or remedy such failure within the Cure Period (which impracticability shall not apply to monetary defaults), within such longer period as shall be reasonable under the circumstances provided that Tenant has commenced to cure within the Cure Period and has made progress satisfactory to Landlord:

- a. Construction of the Improvements is not commenced or completed within the time set forth in the Schedule of Performance; or
- b. Tenant shall abandon or surrender the Premises or the Improvements; or
- c. Tenant shall fail or refuse to pay, within ten (10) days of notice from Landlord, any installment of Rent or any other sum required by this Lease to be paid by Tenant either to Landlord or another creditor; or
- d. Tenant shall fail to perform any covenant or condition of this Lease; or
- e. Tenant shall be declared in default pursuant to any loan or grant obtained by Tenant in connection with the Improvements or the Programs.

**23.2 Remedies of Landlord.** In the event of any such default as described in Section 23.1 Landlord may, at its option, take anyone or more of the following actions:

- a. Correct or cause to be corrected said default and charge the costs thereof (including costs incurred by Landlord in enforcing this provision) to the account of Tenant, which charge shall be due and payable within thirty (30) days after presentation by Landlord of a statement of all or part of said costs, plus a twenty (20%) percent administrative charge;
- b. Correct or cause to be corrected said default and pay the costs thereof (including costs incurred by Landlord in enforcing this

provision) from the proceeds of any insurance;

- c. Exercise its right to maintain any and all actions at law or suits in equity to compel Tenant to correct or cause to be corrected said default;
- d. Have a receiver appointed to take possession of Tenant's interest in the Premises and the Improvements, with power in said receiver to administer Tenant's interest in the Premises and the Improvements, to collect all funds available to Tenant in connection with its operation and maintenance of the Premises and the Improvements; and to perform all other consistent with Tenant's obligation under this Lease as the court deems proper;
- e. Maintain and operate the Premises and the Improvements, without terminating this Lease;
- f. Terminate this Lease by written notice to Tenant.

**23.3 Right of Landlord in the Event of Termination of Lease.** Upon termination of this Lease pursuant to Section 23.2, it shall be lawful for Landlord to re-enter and repossess the Premises and the Improvements and Tenant, in such event, does hereby waive any demand for possession thereof, and agrees to surrender and deliver the Premises and the Improvements peaceably to Landlord immediately upon such termination in good order, condition and repair, except for reasonable wear and tear. Tenant agrees that upon such termination, title to all the Improvements shall automatically vest in Landlord.

- a. Even though Tenant has breached the Lease and abandoned the Premises or the Improvements, this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession, and Landlord may enforce all of its rights and remedies under this Lease. No ejectment, re-entry or other act by or on behalf of Landlord shall constitute a termination unless Landlord gives Tenant notice of termination in writing.
- b. Termination of this Lease shall not relieve or release Tenant from any obligation incurred pursuant to this Lease prior to the date of such termination. Termination of this Lease shall not relieve Tenant from the obligation to pay any sum due to Landlord or from any claim for damages against Tenant.

**23.3 Damages.** Damages which Landlord recovers in the event of default under this Lease shall be those which are then available under applicable



California case and statutory law to landlords for leases in the State of California

- 23.4 **Rights and Remedies are Cumulative.** The remedies provided by this Article 23 are not exclusive and shall be cumulative to all other rights and remedies possessed by Landlord under this Lease or at law or equity. The exercise by Landlord of one or more such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by Tenant.

#### 24. MISCELLANEOUS.

- 24.1 **Governing Law.** The laws of the State of California shall govern the interpretation and enforcement of this Lease.
- 24.2 **Legal Actions and Venue.** In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Lease. Such legal actions must be instituted in the Superior Court of San Diego County, State of California, in any other appropriate court in that County, or in the Federal District Court in the District of California in which the Enrique S. Camarena School Property is located.
- 24.3 **Incorporation of Recitals.** The Recitals set forth above and all Exhibits attached to this Lease, as those exhibits may be amended from time to time, are incorporated herein by reference.
- 24.4 **Acceptance of Service of Process.** In the event that any legal action is commenced by Tenant against Landlord, service of process on Landlord shall be made by personal service upon Landlord, or in such other manner as may be provided by law. In the event that any legal action is commenced by Landlord against Tenant, service of process on Tenant shall be made by in any manner as may be provided by law, and shall be effective whether made within or without the State of California.
- 24.5 **Inspection of Books and Records.** Landlord has the right upon not less than forty-eight (48) hours notice, and during normal business hours) to inspect the books and records of Tenant pertaining to the Premises and the operation of the Improvements as pertinent to the purposes of this Lease.
- 24.6 **Interest.** Any amount due Landlord that is not paid when due shall bear interest at the highest rate permitted under law from the day such amount becomes past due and accruing daily on all unpaid balances until said

amount plus interest is fully paid.

- 24.7 **Notices.** All notices, statements, demands, requests, consents, approvals, authorizations, offers, agreements, appointments or designations hereunder by either party to the other shall be in writing and shall be given either by (i) personal service, (ii) delivery by reputable document delivery service that provides a receipt showing date and time of delivery, or (iii) mailing in the United States mail, certified or registered mail, return receipt requested, postage prepaid, and addressed as follows:

Landlord: Chula Vista Elementary School District  
84 East J Street  
Chula Vista, California 91911  
Telephone: (619) 425-9600

With a copy to: Attention: Ken Cariffe, Business Counsel  
Torrey Coast Group  
5650 El Camino Real, Suite 210  
Carlsbad, CA 92008

Tenant: YMCA of San Diego County  
3708 Ruffin Road  
San Diego, CA 92123  
(858) 292-9622  
Facsimile: (858) 292-0045

With a copy to: Attention: Bernie Porter  
Senior Vice President & General Counsel  
YMCA of San Diego County  
3708 Ruffin Road  
San Diego, CA 92123  
(858) 292-9622  
Facsimile: (858) 292-0045

Any such notice shall also be sent via facsimile or electronic mail. Either party may later designate a different address for service of notice by providing written notice to the other party. Notices personally delivered or delivered by document delivery service shall be effective upon receipt; provided, however that refusal to accept delivery shall constitute receipt. Mailed notices shall be effective as of Noon on the third business day following deposit with the United States Postal Service. Any notices attempted to be delivered to an address from which the receiving party has moved without providing notice to the delivering party shall be effective as of Noon on the third day after the attempted delivery or deposit in the United

States mail.

- 24.8 **Time is of the Essence.** Time is of the essence in the performance of the terms and conditions of this Lease.
- 24.9 **Non-Merger of Fee and Leasehold Estates.** If both Landlord's and Tenant's estates in the Premises and the Improvements become vested in the same owner, this Lease shall nevertheless not be destroyed by application of the doctrine of merger except at the express election of Landlord. The expiration or termination of this Lease, or voluntary or involuntary surrender by Tenant, or the mutual cancellation of this Lease, shall not work as a merger and shall, at the option of Landlord, terminate all or any existing tenancies, subleases, or subtenancies or may, at the option of Landlord, operate as an assignment to Landlord of any or all such existing subleases or subtenancies .
- 24.10 **Holding Over.** The occupancy of the Premises after the expiration of the Term of this Lease shall be construed to be a tenancy from month to month, and all other terms and conditions of this Lease shall continue in full force and effect.
- 24.11 **Conflict of Interest.** No member, official or employee of Landlord shall have any personal interest, direct or indirect, in this Lease nor shall any such member, official or employee participate in any decision relating to the Lease which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested. Tenant warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Lease.
- 24.12 **Non-Liability of Landlord Officials and Employees.** No member, official, officer, employee, agent, or representative of Landlord shall be personally liable to Tenant, or any successor in interest, in the event of any default or breach by Landlord or for any amount which may become due to Tenant or successor or on any obligations under the terms of this Lease.
- 24.13 **Relationship.** The relationship between the parties hereto shall at all times be deemed to be that of landlord and tenant. The parties do not intend nor shall this Lease be deemed to create a partnership or joint venture.
- 24.14 **Waivers and Amendments.** All waivers of the provisions of this Lease must be in writing and signed by the appropriate authorities of Landlord or Tenant. The waiver by Landlord of any breach of any term, covenant, or

condition herein contained shall not be deemed to be a waiver of such term, covenant or condition, or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach of Tenant of any term, covenant or condition of this Lease, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent. Failure on the part of Landlord to require or exact full and complete compliance with any of the covenants or conditions of this Lease shall not be construed as in any manner changing the terms hereof and shall not prevent Landlord from enforcing any provision hereof. All amendments hereto must be in writing and signed by the appropriate authorities of Landlord and Tenant.

- 24.15 **Entire Agreement.** This Lease sets forth the entire understanding of the parties with respect to Tenant's ground lease of the Premises and the Construction and operation of the Improvements.
- 24.16 **Counterparts.** This Lease may be executed in counterparts, each of which, when this Lease has been signed by all the parties hereto, shall be deemed an original.
- 24.17 **Severability.** If any provision of this Lease or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Lease and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforceable to the greatest extent permitted by law
- 24.18 **Terminology.** All personal pronouns used in this Lease, whether used in the masculine, feminine, or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles of sections are for convenience only, and neither limits nor amplifies the provisions of the Lease itself.
- 24.19 **Memorandum.** Unless otherwise agreed to by Landlord, a memorandum of this Lease shall not be recorded.
- 24.20 **Binding Effect.** This Lease, and the terms, provisions, promises, covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.
- 24.21 **Estopped Certificate.** Each of the parties shall at any time and from time to time upon not less than thirty (30) days ' prior notice by the other, execute, acknowledge and deliver to such other party a statement in writing certifying that this Lease is unmodified and is in full force and effect

(or if there shall have been modifications that this Lease is in full force and effect as modified and stating the modifications), and the dates to which the rent has been paid by Tenant, and stating whether or not to the best knowledge of the signer of such certificate such other party is in default in performing or observing any provision of this Lease, and, if in default, specifying each such default of which the signer may have knowledge, and such other matters as such other party may reasonably request, it being intended that any such statement delivered by Tenant may be relied upon by Landlord or any successor in interest to Landlord or any prospective mortgagee or encumbrances thereof, and it being further intended that any such statement delivered by Landlord may be relied upon by any prospective assignee of Tenant's interest in this Lease or any prospective mortgagee or encumbrances thereof. Reliance on any such certificate may not extend to any default as to which the signer of the certificate shall have had no actual knowledge.

24.22 **Force Majeure.** The time within which Landlord or Tenant is obligated herein to perform any obligation hereunder, other than an obligation that may be performed by the payment of money, shall be extended and the performance excused when the delay is caused by fire, earthquake or other acts of God, strike, lockout, acts of public enemy, acts of terrorism, riot, insurrection or other cause beyond the reasonable control of the applicable party.

24.23 **Quiet Enjoyment.** Landlord does hereby covenant, promise and agree to and with Tenant that Tenant, for so long as Tenant is not in default hereof, shall and may at all times peaceably and quietly have, hold, use, occupy and possess the Premises throughout the Term.

24.24 **Landlord Approvals and Actions.** Whenever a reference is made herein to an action or approval to be undertaken by Landlord, the Superintendent of Landlord or his or her designee is authorized to act on behalf of Landlord unless specifically provided otherwise herein or the law otherwise requires. No approval required hereby by Landlord or Tenant shall be unreasonably withheld or delayed.

25. [RESERVED]

26. RIGHTS OF LEASEHOLD MORTGAGEE CONCERNING FINANCING.

Tenant has informed Landlord that Tenant plans to encumber the Premises and the Improvements for the construction of the Project (the "Construction Loan"). Tenant will cause the encumbrance to be removed as an exception to title within ten years of the end of construction by paying off the Construction Loan or otherwise entering into agreements with any lenders to remove such exceptions.

Landlord agrees that so long as any Leasehold Mortgage shall remain unsatisfied of record or until written notice of satisfaction is given by the holders of any such Leasehold Mortgage to Landlord, the following provisions shall apply:

- 26.1 **No Cancellation.** There shall be no early cancellation, surrender or modification of this Lease by joint action of Landlord and Tenant without the prior consent in writing of each Leasehold Mortgagee.
- 26.2 **Notice of Default.** Landlord shall, upon serving Tenant with any notice of default, simultaneously serve a copy of the notice upon each Leasehold Mortgagee of whom it has knowledge at the latest address previously given to Landlord.
- 26.3 **Leasehold Mortgagee's Right to Perform.** Each Leasehold Mortgagee shall have the rights, but not the obligations, at any time prior to termination of this Lease to pay all of the rent due hereunder, with all due interest and late charges, to effect any insurance, to pay any taxes or assessments, to make any repairs or improvements, to do any other act or thing required of Tenant hereunder, and to do any act or thing which may be necessary and proper pursuant to the terms hereof to be done in the performance and observation of the agreements, covenants and conditions hereof to prevent termination of this Lease. Any Leasehold Mortgagee and its agents and contractors shall have full access, subject to the terms of the Lease, to the Premises for purposes of accomplishing any of the foregoing. Any of the foregoing done by Leasehold Mortgagee shall be as effective to prevent a termination of this Lease as the same would have been if done by Tenant.
- 26.4 **Leasehold Mortgagees Right to Cure.** Subject to any Cure Period in this Lease, if any default shall occur which, pursuant to any provision of this Lease, purportedly entitles Landlord to terminate this Lease, Landlord shall not be entitled to terminate this Lease, and the notice shall be rendered void, if the Leasehold Mortgagee or trustee under any such mortgage, within thirty (30) days after the default, shall both: (i) either (a) cure the default if the same can be cured by the expenditure of money; or (b) if the default is not so curable, commence, or cause any trustee under the Leasehold Mortgage to commence, and thereafter to diligently and promptly pursue to completion steps and proceedings to foreclose on the interests covered by the Leasehold Mortgage; and (ii) perform or cause the performance of all the covenants and conditions of this Lease requiring the expenditure of money by Tenant until such time as the leasehold shall be sold upon foreclosure pursuant to the Leasehold Mortgage, or shall be released or reconveyed there under, or shall be transferred upon judicial foreclosure or by deed or assignment in lieu of foreclosure.

- 26.5 **Termination Subject to Mortgagee Rights.** All rights of Landlord to terminate this Lease as the result of the occurrence of any default shall be subject to, and conditioned upon, Landlord having first giving to each Leasehold Mortgagee written notice of the default in the same manner and with the same time period as required in favor of Tenant, and all Leasehold Mortgagees having failed to remedy such default or acquire Tenant's leasehold estate hereunder or commence foreclosure or other appropriate proceedings in the nature thereof as set forth in this Lease.
- 26.6 **Mortgagee Loss Payable.** Landlord agrees that the names of each Leasehold Mortgagee shall be added to the "Loss Payable Endorsement" of any and all insurance policies required to be carried by Tenant under this Lease on condition that the insurance proceeds are to be applied in the manner specified in the applicable Leasehold Mortgage.
- 26.7 **New Lease.** Landlord agrees that in the event of termination of this Lease by reason of any default by Tenant, or by reason of the disaffirmance hereof by a receiver, liquidator or trustee for Tenant or its property, Landlord will enter into a new lease of the Premises with the most senior Leasehold Mortgagee requesting a new lease for the remainder of the Term, effective as of the date of such termination, at the rent, and upon the terms, provisions, covenants and agreements as herein contained and subject to the rights, if any, of any parties then in possession of any part of the Premises , provided:
- a. The senior Leasehold Mortgagee shall make written request upon Landlord for the new lease within thirty (30) days after the date of termination;
  - b. The senior Leasehold Mortgagee shall pay to Landlord at the time of the execution and delivery of the new lease any and all sums which would, at the time of the execution and delivery thereof, be due and unpaid pursuant to this Lease but for its termination, and in addition thereto any expenses, including attorneys' fees, to which Landlord shall have been subjected by reason of the default;
  - c. The senior Leasehold Mortgagee shall perform and observe all covenants herein contained on Tenant's part to be performed, and shall further remedy any other conditions which Tenant under the terminated Lease was obligated to perform under its terms, to the extent the same are curable or may be performed by the senior Leasehold Mortgagee; and
  - d. The tenant under the new lease shall have the same obligations

and responsibilities and the same right, title and interest in and to all Improvements as Tenant had under the terminated Lease immediately prior to its termination.

- e. Notwithstanding anything to the contrary expressed or implied elsewhere in this Lease, any new lease made pursuant to this Section 26, shall be prior to any Leasehold Mortgage or other lien, charge or encumbrance on the Premises, to the same extent as the terminated Lease, and shall be accompanied by a conveyance of title to the Improvements (free of any mortgage, deed of trust, lien , charge, or encumbrance created by Landlord)for a term of years equal to the term of the new lease, subject to the reversion in favor of Landlord upon expiration or sooner termination of the new lease. The rights granted any Leasehold Mortgagee to a new lease shall survive any termination of this Lease.
- f. If a Leasehold Mortgagee shall elect to demand a new lease under this Section 26, Landlord agrees, at the request of, on behalf of and at the expense of the Leasehold Mortgagee, to institute and pursue diligently to conclusion any appropriate legal remedy or remedies to oust or remove the original Tenant from the Premises, and any subtenants actually occupying the Premises, or any part thereof, as designated by the Leasehold Mortgagee subject to any non-disturbance or attornment agreements with such subtenants.
- g. Unless and until Landlord has received notice from all Leasehold Mortgagees that the Leasehold Mortgagees elect not to demand a new lease as provided in this Section 26, or until the thirty (30) day period after the date of termination has expired, Landlord shall not cancel or agree to the termination or surrender of any existing subleases nor enter into any new subleases hereunder without the prior written consent of the Leasehold Mortgagee.

26.8 **No Obligation to Cure.** Nothing herein contained shall require any Leasehold Mortgagee to enter into a new lease or to cure any default of Tenant referred to above.

26.9 **Right to Assign.** Foreclosure of any Leasehold Mortgage, or any sale there under, whether by judicial proceedings or by virtue of any power contained in the Leasehold Mortgage, or any conveyance of the leasehold estate hereunder from Tenant to any Leasehold Mortgagee or its designee through, or in lieu of, foreclosure or other appropriate proceedings in the nature thereof, shall not require the consent of Landlord or constitute a breach of any provision of or a default under this Lease, and upon such foreclosure, sale or conveyance Landlord shall recognize the purchaser or



other transferee in connection therewith as the Tenant hereunder.

**26.10 No Personal Liability.** In the event any Leasehold Mortgagee or its designee becomes the Tenant under this Lease or under any new lease obtained pursuant to this Section 26, the Leasehold Mortgagee or its designee shall be personally liable for the obligations of Tenant under this Lease or a new lease only for the period of time that the Leasehold Mortgagee or its designee remains the actual beneficial holder of the leasehold estate hereunder, and only to the extent provided in this Lease or such new lease. The right of any Leasehold Mortgagee, or its designee, thereafter to assign this Lease or the new lease shall be subject to the restrictions on assignment within the Lease except that an assignment by any Leasehold Mortgagee to an assignee with a net worth ("Net Worth") of not less than the present value of the rental payments due for the balance of the lease term (excluding Option periods) shall be exempt from any assignment restriction. For purposes of this Section 26 Net Worth shall mean, as of any applicable date of determination, the excess of (i) the net book value of all assets of the proposed assignee after all appropriate deductions (including, without limitation, reserves for doubtful receivables, obsolescence, depreciation and amortization), over (ii) all debt of the proposed assignee, all as determined in accordance with GAAP

**26.11 Separate Agreement.** Landlord shall, upon request, execute, acknowledge and deliver to each Leasehold Mortgagee, an agreement prepared at the sole cost and expense of Tenant, in form satisfactory to Landlord, Tenant and each Leasehold Mortgagee, between Landlord, Tenant and the Leasehold Mortgagees, agreeing to all of the provisions hereof.

**26.12 Certain Definitions.**

The term "Leasehold Mortgage," whenever used herein, shall mean: (a) the instrument or instruments securing one or more financings pursuant to the terms of this Lease, encumbering only the leasehold interest of Tenant, and include whatever security instruments are used in the locale of the Premises, including, without limitation, mortgages, deeds of trust, security deeds, and conditional deeds, as well as financing statements, security agreements and other documentation required pursuant to the Uniform Commercial Code; and (b) any instruments required in connection with a sale-leaseback transaction. The term "Leasehold Mortgagee" shall include one or more holders of the beneficial interest and secured position under any Leasehold Mortgage.

**26.13 Landlord's Mortgages.** Landlord may mortgage or otherwise encumber its interest in the Premises; however, such mortgage or other

encumbrance shall be subject to Tenant and any Leasehold Mortgagee receiving assurance (a "nondisturbance agreement") from the lender encumbering Landlord's interest that the Tenant's possession, this Lease and the Leasehold Mortgagee's security interest in the Lease will not be disturbed so long as Tenant (or the Leasehold Mortgagee) is not in breach of the Lease and attorns to the record owner of Landlord's interest. Upon request by a lender encumbering Landlord's interest in the Premises, Tenant shall enter into a subordination, non-disturbance and attornment agreement that shall subordinate the Lease to the encumbrance by Landlord. Such subordination, non-disturbance and attornment agreement must substantially provide that as long as Tenant (or the Leasehold Mortgagee) performs Tenant's obligations under the Lease, no foreclosure of, deed given in lieu of foreclosure of, of sale under the encumbrance, and no steps or procedures taken under the encumbrance, shall affect Tenant's (or the Leasehold Mortgagee's) rights under this Lease.

26.14 **No Liability.** Any such Leasehold Mortgage shall provide that Landlord shall have no personal liability or obligation for the repayment of any such loan or for the performance of any obligations under such mortgage or any of the other documents or instruments which evidence, govern or secure such loan. In no event shall Landlord have any obligation to subordinate its leasehold interest in the Premises or any financing secured by Landlord's leasehold interest to any Tenant financing or to execute any obligation to subordinate its leasehold interest in the Premises to any Tenant financing or to execute any Leasehold Mortgage. In addition, Landlord shall have no obligation to guarantee any of Tenant's indebtedness or other obligations under such loan.

26.15 **Due Authority of Signatories.** Each person signing this Lease represents and warrants that he or she has been duly authorized, by appropriate action of the Party that he or she represents, to act on behalf of that Party and to bind that Party to the terms and conditions of this Lease.

(The remainder of this page is intentionally left blank - the signature page follows)

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their lawfully authorized officers.

**Landlord:**

Chula Vista Elementary School District

BY: \_\_\_\_\_  
Dr. Francisco Escobedo  
Superintendent

Attest:

By: \_\_\_\_\_  
Name:  
Title:

**Tenant:**

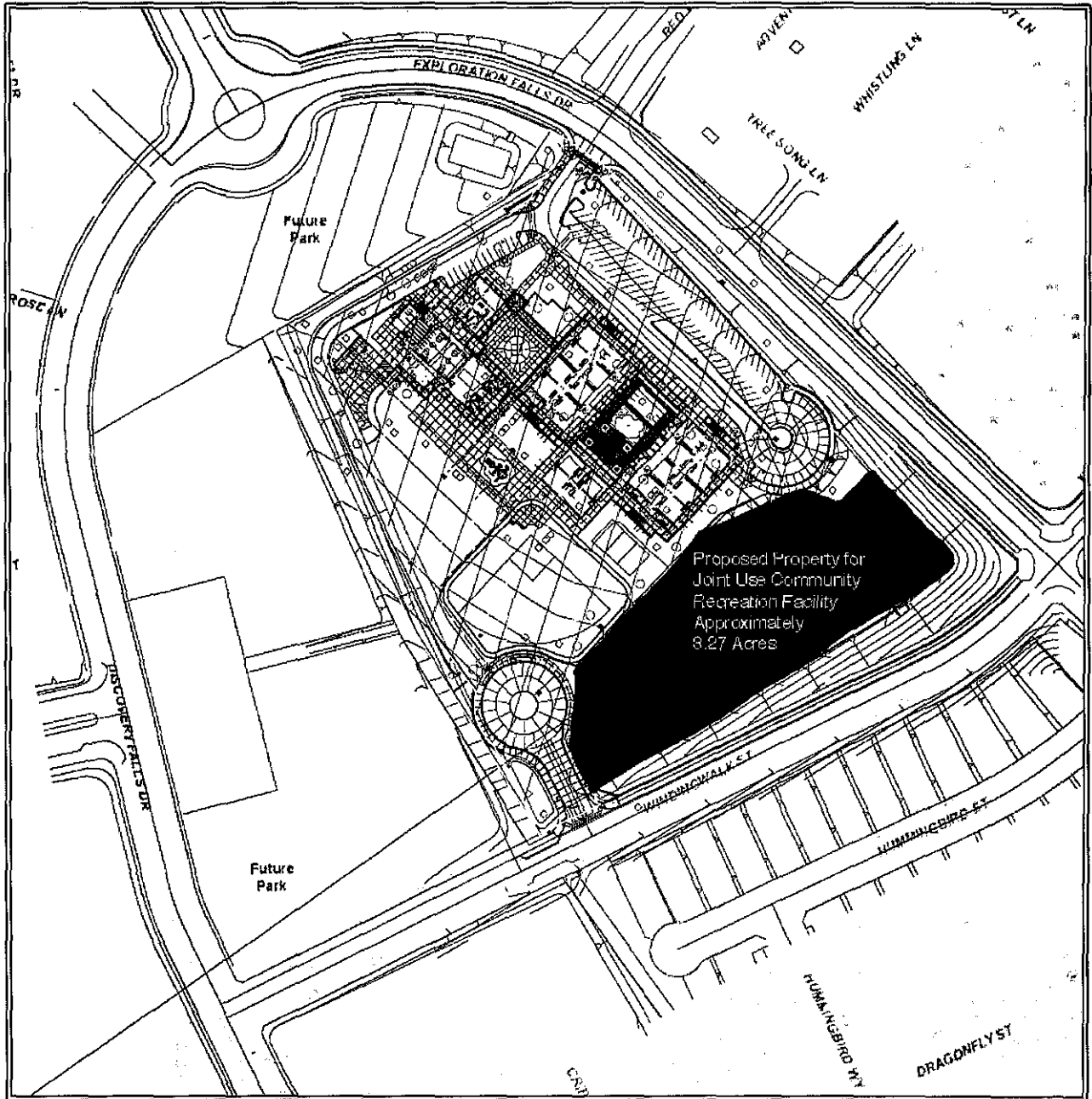
YMCA of San Diego County,  
A California nonprofit public corporation

BY: \_\_\_\_\_  
Name  
President

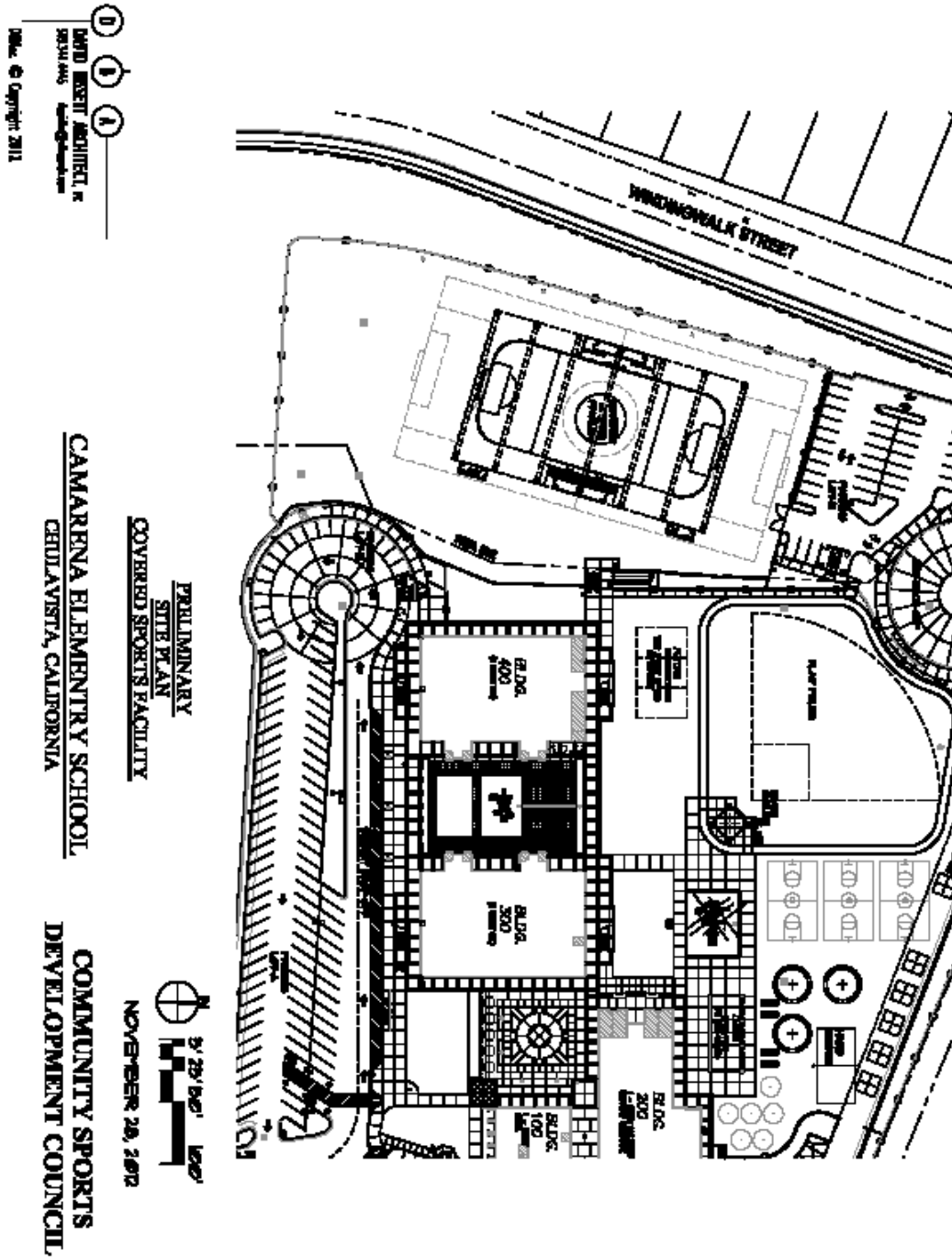
Attest:

By: \_\_\_\_\_  
Name:  
Title:

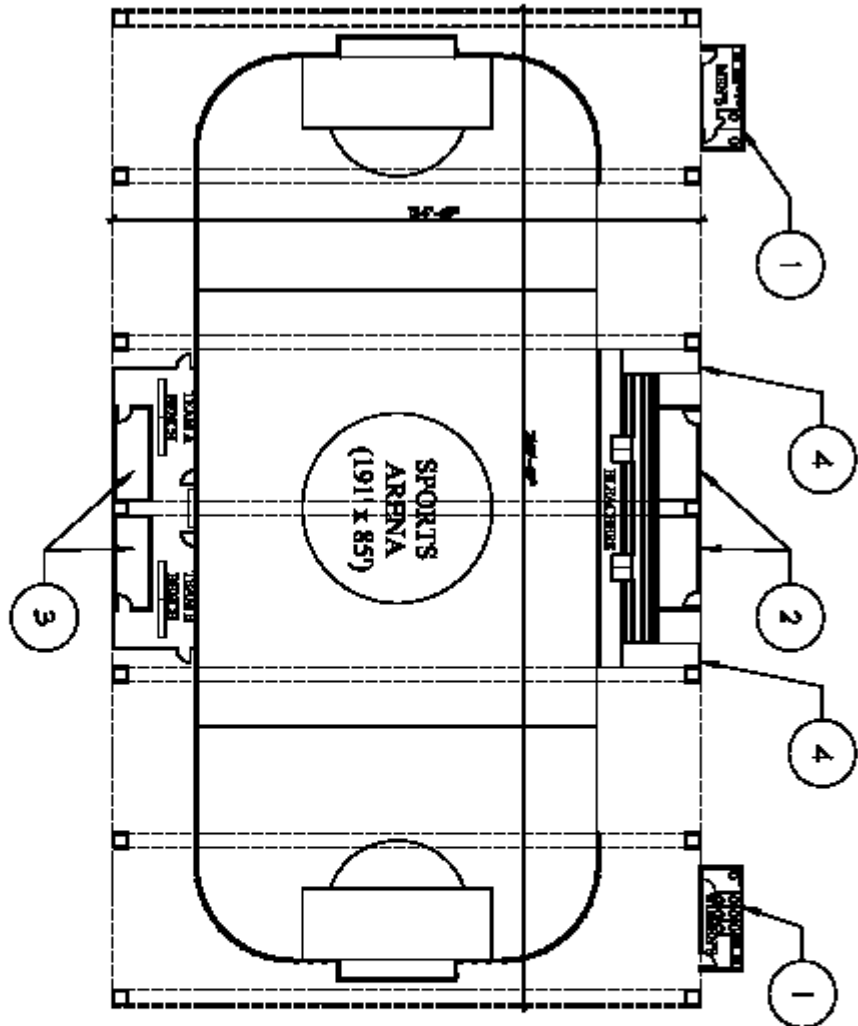
EXHIBIT "A"  
PROPOSED PROPERTY FOR JOINT USE AT  
ENRIQUE S. CAMARENA ELEMENTARY SCHOOL



# Exhibit B CONCEPTUAL SITE PLAN



① ② ③ ④  
DAVID BERT ARCHITECT, PC  
50534 ANDY AVE  
SAN DIEGO, CA 92121  
© Copyright 2012



**CAMARENA ELEMENTARY SCHOOL  
CHULA VISTA, CALIFORNIA**

**PRELIMINARY  
FLOOR PLAN  
COVERED SPORTS FACILITY**

**COMMUNITY SPORTS  
DEVELOPMENT COUNCIL**

NOVEMBER 20, 2012

- ## KEY NOTES
- ① REST ROOMS: 9' x 22'  
MODULAR FACILITY  
PROVIDED BY PREFAB BLDG.  
VENDOR. FULL ADA  
COMPLIANCE. FIXTURE  
COUNT & CODE REQ. BY  
OTHERS
  - ② 8' x 20' MODULAR  
STORAGE/OFFICE/  
CONCESSIONS BUILDING.
  - ③ 8' x 20' MODULAR STORAGE  
BUILDING.
  - ④ RAMP TO BLEACHER STANDS.

Exhibit C  
SCHEDULE OF PERFORMANCE

See Attached

Exhibit D  
DESCRIPTION OF IMPROVEMENTS

The project will construct a new open-air sports pavilion for the South Bay Family YMCA located at 1650 Exploration Falls Drive, Chula Vista, CA 91915, together with related site improvements to meet the YMCA's defined program objectives and community needs. The new facility is to be constructed on the site of Enrique S. Camarena Elementary School.

The new facility will be based on an operational program as recommended community input and YMCA program needs. In general the following program needs are expected to be included:

- 191' x 85' Outdoor, Covered, Multi-purpose sports pavilion to offer a wide-range of youth and Adult sports including soccer, flag football, healthy lifestyle programming and family programming. Includes artificial turf, and lighting.
- Modular Program Office, Accessible Restrooms, Concession and Storage Buildings
- Exterior Common Areas: Includes shared parking, vehicle access and pedestrian access safety, appropriate lighting, site signage, and walkways, and sports observation areas.



Exhibit E  
RESERVED DISTRICT USE

Hours of operation and schedules for all activities, including swimming pool activities, hours of Restricted District Use and hours of shared use by District and Tenant, shall be established from time to time, as agreed upon by the parties.

The following is a draft schedule:

Time	
	Sports Pavilion
5:00 am	YMCA Use
6:00 am	
7:00 am	
8:00 am	School Use  8:00 am to 2:00 pm
9:00 am	
10:00 am	
11:00 am	
12:00 pm	
1:00 pm	
2:00 pm	
3:00 pm	
4:00 pm	YMCA Use
5:00 pm	
6:00 pm	
7:00 pm	
8:00 pm	
9:00 pm	

## EXHIBIT F

### TO JOINT OCCUPANCY LEASE AND DEVELOPEMENT AGREEMENT OPERATIONAL PROVISIONS

1. **OPERATION OF THE IMPROVEMENTS.** Hours of operation and schedules for all activities, hours of Restricted District Use and hours of shared use by District and Tenant, shall be established from time to time, as agreed upon by the parties.

Scheduling shall include schedules of maintenance, supervision of program activities, and any other activity of critical import to the operation of the Improvements, as determined by the parties.

The Improvements shall be used primarily for recreational, educational, and social programs and services intended to benefit the District and the community, typically provided by Tenant, appropriate for the Improvements constructed and acceptable to the District. The District shall be allowed to make use of the Premises and the Improvements during the term of the proposed lease in the following manner:

**Exclusive Use of Certain Improvements.** The District shall have exclusive use of the Improvements during the regular school day. There shall be no charges or fees for such use. Tenant shall have use of the facility in the evenings, on weekends, and during breaks in coordination with the needs of the District..

**Reserved Use.** In addition to the Exclusive Use reserved to the District above, the District and Tenant may agree on dates and times for District students and/or employees designated by District and agreed to by Tenant to reserve the use of the facilities during hours of nonoperation by Tenant at the charge and upon the conditions agreed upon by Tenant and District.

**Shared Use.** District's staff, students, and invitees may use the Improvements and/or participate in offered at rates, including flat rates and/or group rates, and pursuant to any conditions agreed upon by District and Tenant.

All costs associated with the supervision of activities, including but not limited to the cost of qualified staff at all times the pavilion is open to the public shall be borne by Tenant. After each period of Exclusive or Reserved Use, District shall leave the Improvements clean and in good condition. It shall be the responsibility of District staff assigned to supervise during Exclusive or Reserved Use hours to promptly report to the District and the Tenant any damages caused by such use.

An initial schedule shall be in place no later than the date that construction is completed. Upon the final approval and execution of the Lease and these Provisions, the District and the Tenant shall appoint representatives to establish a committee (the "Steering Committee") to be responsible for preparing the required schedules of use and to ensure that all requirements of this Provision and the Lease are complied with. The parties shall agree on the time and manner of appointment and replacement of Steering Committee members.

2. **NO MAJOR ALTERATIONS.** Tenant shall have no right to conduct any major alteration of the Improvements or the Premises without District's prior written consent. A "major alteration" includes changes to the external colors approved by the District and any physical changes to the structures, internal or external.
3. **NO DRUGS.** The Enrique S. Camarena School Property is a Drug Free Zone and no use of any illegal substances, tobacco or tobacco products, or consumption of alcohol, shall be permitted by Tenant on the Premises or the Improvements.
4. **COMPLIANCE WITH DISTRICT'S STORMWATER MANAGEMENT PROGRAM.** At all times during the construction and operation of the Improvements, Tenant shall comply with the then current Storm water Management Program. District has provided information to Tenant concerning the current requirements of said program. It shall be Tenant's sole responsibility to request bi-annual updates from the District and to ensure full compliance with all requirements of said program.
5. **FINGERPRINTING REQUIREMENT.** Tenant shall, at all times while the Lease is in effect, including during the construction period, comply with the finger printing requirement of the California Education Code Section 45125.1, as from time to time amended. Tenant may satisfy this requirement by obtaining a fingerprinting report (or background check report) for each person involved in the construction and/or operation of the Improvements or Programs, as applicable, that may come into contact with District students and by completing a certificate substantially in the following form:

#### **Certificate Concerning Finger Printing**

With respect to the GROUND LEASE AND DEVELOPMENT AGREEMENT ("Lease") dated \_\_\_\_\_, 20\_\_ by and between the CHULA VISTA ELEMENTARY SCHOOL DISTRICT, a school district organized and existing pursuant to the California Education Code ("District"), and YMCA OF SAN DIEGO COUNTY, a California nonprofit public benefit corporation ("Tenant"), Tenant hereby certifies to the District's Board of Trustees that it has completed the criminal background checks required under the California Education Code, section 45125.1 or as renumbered, and that none of its employees, contractors, subcontractors, agents or volunteers that may come in contact with District students has been convicted of a violent felony listed in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).

\_\_\_\_\_  
Tenant's Representative

\_\_\_\_\_  
Date:

If Tenant chooses to satisfy this requirement by the periodic filing of certificates similar to the above, Tenant shall update its filing each time a person not previously covered by a similar certificate is employed by Tenant, or a person previously employed by Tenant is assigned a task that will bring him or her into contact with District students. While the Lease remains in effect, Tenant shall maintain adequate records of the results of its back ground checks and shall make them available to the District for inspection within 24hours of notice from the District that it wishes to inspect said records. In addition, Tenant shall promptly provide the District with a summary background report for any employees, con tractors, subcontractors, agents or volunteers whom Tenant discovers have been previously convicted of a violent felony listed in Penal Code section 667.5(c) or a serious felony listed in Penal Code section I 192.7(c). In connection with those contractors, subcontractors or agents for whom Tenant can provide evidence to the District that no contact with students will occur, Tenant may complete the following certificate and may submit a written request to the District to make the findings specified therein:

#### REQUEST FOR EXEMPTION

With respect to the GROUND LEASE AND DEVELOPMENT AGREEMENT ("Lease") dated \_\_\_\_\_, 20\_\_ by and between the CHULA VISTA ELEMENTARY SCHOOL DISTRICT, a school district organized and existing pursuant to the California Education Code ("District"), and YMCA OF SAN DIEGO COUNTY, a California nonprofit public benefit corporation ("Tenant"), Tenant hereby requests an exemption from its obligation to conduct background checks, as required under Education Code Section 45 125.1. The exemption is requested in connection with \_\_\_\_\_ (an individual employed by \_\_\_\_\_) or \_\_\_\_\_ (a contractor, subcontractor, or agent). Tenant believes that an exemption is warranted because:

- \_\_\_ The individual, or all employees of the contractor, subcontractor or agent identified above, will have limited contact with DISTRICT students during the course \_\_\_\_\_; or
- \_\_\_ Emergency or exceptional circumstances exist.

*(A FULL EXPLANATION MUST BE ATTACHED)*

## EXEMPTION FROM FINGERPRINTING REQUIREMENTS

The CHULA VISTA ELEMENTARY SCHOOL DISTRICT, a school district organized and existing pursuant to the California Education Code ("District"), has determined that \_\_\_\_\_ is exempt from the criminal background check certification requirements of the Education Code because:

\_\_\_\_\_ will have limited contact with  
DISTRICT students during the course of the  
\_\_\_\_\_ ; or

\_\_\_\_\_ **Emergency or exceptional circumstances exist.**

District Official Date: - ..

6. **COMPLIANCE WITH DISTRICT'S PESTICIDE USE POLICY.** All pesticide use must be in consultation with District maintenance staff and conformance with District Pesticide Use Policy, as said policy may be amended from time. A copy of the District's current pesticide use policy has been provided to Tenant.
7. **NON INTERFERENCE.** At all times while the Lease remains in effect, Tenant shall be responsible for ensuring that its contractors, subcontractors, agents, employees, guests, volunteers, program participants and any other person making use of, or visiting, the Premises and/or the Improvements, does not in any manner interfere with District activities at the Camarena Elementary School and does not use or access any school facilities, including parking provided for school employees and/or school related purposes.
8. **ANNUAL REVIEW.** Annually, on or prior to the anniversary date of the Effective Date of the Lease, representatives of the District and the Tenant shall meet to review any and all issues related to the co-location of the Improvements and the school facilities at the Enrique S. Camarena School Property, to review the Programs and discuss any changes Tenant proposes to make, to review this Provision and to make any revisions required to the Lease, any Exhibits thereof and/or to this Provision.
9. **AMENDMENT/CHANGES.** This Operational Provisions can be revised annually, or from time to time, as it becomes necessary to ensure that Tenant is operating in compliance with all applicable District policies at all times.

CHULA VISTA ELEMENTARY SCHOOL DISTRICT

By: \_\_\_\_\_

Date:: \_\_\_\_\_

YMCA OF SAN DIEGO COUNTY

By: \_\_\_\_\_ Date: \_\_\_\_\_